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FOR INFORMATION

H. A. BOAZ, President, Southern Methodist University
W. C. WALES, Secretary, Dallas School of Commerce, S. M. U.

The Venney Co.

H. W. Wells. 16 '22

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Foreword

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THE enclosed series of lectures was originally used as the basis of the course in REAL ESTATE METHODS, offered by the Dallas School of Commerce of Southern Methodist University in co-operation with the Dallas Real Estate Board, Dallas, Texas.

EACH lecture represents a thorough study and analysis of the subject discussed, prepared by a man well qualified by experience to do the work. The Dallas School of Commerce extends its appreciation to these men, who gave their time and energy to the work:

Mr. G. N. Aldredge.
Mr. L. L. Bristol.
Mr. G. T. Burgess.
Mr. H. W. Fisher.
Mr. W. W. Fisher.
Mr. R. P. Lindsley.
Mr. Frank L. McNeny.
Mr. Fletcher F. McNeny.
Mr. Lawrence Miller.
Mr. Hugh E. Prather.
Mr. J. B. Rucker.
Mr. E. E. Shelton.

HISTORY AND DEVELOPMENT OF REAL PROPERTY

By H. W. Fisher.

The right of property, or that dominion which one man claims and exercises over the external things of this world in total exclusion of the right of any other individual, presents perhaps the most absorbing subject which interests all mankind. Rights in real property, or in land, on account of man's innate love of the soil, are probably nearer and dearer to the hearts of man than any other property rights. Yet how few of us there are who ever stop to consider the origin and foundation and the development of this right of real property.

We get it from the Holy-Writ, that the earth and all things therein are the general property of all mankind, as the immediate gift of the Creator, and during the very early history of man, it is easy to understand that all was in common among mankind, and that each person took and used whatever was needed for his livelihood. In these earlier days probably no man had any conception of real property, and only his weapons of the chase and his rude clothing were considered as belonging solely to the individual. But as man increased in numbers and as he learned the desirability and discovered methods of housing himself as a protection against the elements, a property right soon established itself that a man's abode was his own, and could not justly be seized and occupied by another. And in order to avoid the uncertainty of the chase as a means of obtaining flesh to eat, man was prompted to establish also a property right in his flocks and herds of the more domestic animals.

In these early days the people were nomadic, wandering about and establishing their temporary domiciles in such spots as offered them the easiest living. But as the population continued to grow, it became increasingly difficult to find new places of settlement without encroaching upon former occupants.

At the same time a long stay in the same place soon diminished the fruits of the earth and the game of the fields and forests. There was, therefore, the necessity of some more regular method of providing a constant

food supply and this necessity finally produced the art of agriculture. And agriculture necessarily established the idea of a more permanent possession of the soil, for no man wished to devote his time and labor to tilling the soil if another might step in and seize and use the product of his labors. Thus we see that the necessities of life were responsible for the establishment of real property. We see also that as a man could continue to occupy and claim ownership only with the sanction and protection in that right by his neighbors, that real property is not a natural but a social right.

This right of the individual to real property, however, did not spring into being over night. Even in the early days of agriculture, the peoples of the world usually gathered themselves together in tribes, as protection against their enemies and for social reasons, and the cultivated lands were held and worked in common, as tribal property. This period of primitive communism must have covered many centuries, but with the constitution of private families within the tribes, the common tribal property began to be parcelled out into bits, forming the collective property of the family. In this use of the word family, we do not mean the father, mother and children, such as constitute modern family, but all those persons within the tribe, who were related by ties of blood. The land was generally parcelled out by lot, pasture, hunting and fishing lands still being held in common by the tribe, made up of many families. This was the typical patriarchy. As time passed the patriarchial family gradually disintegrated and was superseded by the modern family as we know it; and the land belonging to it was parcelled out among the individuals and held in severalty. Thus, we come down to the period of private ownership of real property. It must be noted here, however, that these lands were held by the individuals allodially. By allodial holdings in land we mean possession of land by man strictly in his own right without owing any rent or service to any superior or any government.

The history and development of real property up to this point must have been very similar among all peoples. In our further discussions, however, we will have reference chiefly to the development of real property in England, for it is from the common law of that country that we have inherited principally our customs and laws pertaining to real property; and it is impossible to understand the English laws regulating landed property without some knowledge of the feudal laws so universally followed in England and indeed, all over Europe for several centuries.

The feudal system had its origin in the military policy of the northern Celtic nations called the Barbarians by their Roman contemporaries. In order to hold more securely their conquered territories, it was the custom of their leaders to parcel out large portions of land to the greater of their chieftains, who in turn dealt out smaller portions to the lesser chieftains and leaders. These allotments were called feuds or fees, signifying a reward or stipend. The condition of the awards was that the possessor should do service to him by whom they were given. But as all the lands came from the right of conquest, both givers and receivers were mutually pledged to defend each other's possessions. Thus was formed a military machine which included the whole of a people, from the lowest retainer to the general or chieftain or prince of the entire nation. It is probable that something akin to the system of feudalism existed in England even in the time of the Saxons, who themselves were one of the northern races; but it certainly had not attained a very high development before the Norman conquest of England in 1066.

From the slaughter of the English nobility at the battle of Hastings and the numerous forfeitures of lands belonging to the English chieftains, King William was enabled to reward his Norman followers with very extensive possessions, and these chieftains were thoroughly imbued with the feudal idea under which they had long lived. Their influences, together with the weakness of the nation in repelling foreign invasion, strengthened this feudal idea, so that when William in the 20th year of his reign, called together his nobles at Sarum, all the principal land holders submitted their lands to the yoke of military tenure, became the king's vassals and did homage and fealty to his person. The laws enacted at this council of Sarum show that the legal establishment of the feudal system in England was effected at this time.

As a consequence of this change, which supposedly abolished all allodial holdings of land, it became a necessary principle of all land tenures, that the king was the lord of the whole country and the original proprietor of all the lands in the kingdom, and that all lands were re-

ceived from him as a gift to be held upon the proper return of feudal services. This was, in a measure, a mere fiction in England, but as such was the case in the pure feudal system, any country which adopted the system, was obliged to act upon the same supposition. The grantor, or king, was called the lord, and he supposedly retained dominion of the feud or fee, while the grantee, or recipient of the feud was called the vassal. The vassal, or tenant, besides the oath of fealty, did homage to his lord and became his man. The services rendered in return for the lands was originally only two-fold: To follow, or do suit to the lord in his courts in time of peace, and in his armies when necessity demanded. At first the feuds were held at the will of the lord, who was the sole judge as to whether his vassals performed their services faithfully; but in time feuds were extended beyond the life of the first vassal to his sons, and later to the family and the heirs of his blood. In the beginning also the vassal could not alienate or dispose of his feud; and as the feudal system was reciprocal, the tenant being entitled to his lord's protection in return for his own fealty and service, the lord could no more transfer his seignory, or protection, without the consent of the vassal, than the vassal could his feud without the consent of the lord. These were the principal characteristics of the original or genuine feuds, which were all of a military nature; but as the feudatories, or lords, often could not find time on account of military duties to cultivate their lands, they soon found it necessary to grant parts of their holdings to inferior and smaller tenants, pledging them to such returns in service, corn or cattle, as might enable the chief feudatories to attend to their military duties. These lesser tenants were under similar obligations of fealty and homage as their lords were to their superior. This subinfeudation destroyed the simplicity of feuds and introduced many innovations and customs. Persons who held direct from the king were called his tenants in capite, and this was, of course, the highest species of tenure. These persons, when they granted out portions of their lands to inferior persons, became lords in respect to these persons, and were called mesne lords, or middle lords. The services due to the lords from their tenants were classified as free services, which were services not unbecoming to a soldier or a free man to perform, and base services, such as the actual work on the lord's lands and other menial duties, which were considered fit only for

peasants, or persons of servile rank. From the various combinations of these services there arose three different kinds of lay tenure, which last to this day in England.

The first of these, and the most honorable species of tenure was called knight service and this character of tenure involved chiefly military service with the king in time of war. Gradually, as time went on, the holders of knight tenure were allowed to pay certain sums of money in lieu of personal military service, this payment being called scutage, or escuage. These scutages, levied by the king, and afterwards assessed by Parliament, were the ground work of all succeeding subsidies and of the land tax of more modern times. But as the feuds cast off their purely military character, fundamental rules of tenure and succession were changed, and in time the system came to be regarded as a civil rather than a military establishment, its chief purpose being to raise money to pay for a mercenary army.

The second great class of tenure was called Tenure in Free Socage. The distinctive characteristics of this class of tenure was that the services to be rendered were fixed and determinate in amount, as opposed to the uncertain services of knight tenure; and it consequently included all tenures by fixed rents, whether these rents were of considerable pecuniary value, or merely nominal in order to evidence the tenure. A man holding land under this kind of tenure was generally said to hold his land in free and common socage and he could hold direct from the king or from a middle lord. These were the two main species of tenure under which freehold lands in England were held, until after the restoration in 1660, when all tenures by knight service were abolished, so that lands of both sorts were thereafter held by free and common socage.

The third great division of tenure is that villenage, as contradistinguished from free tenure. To understand this class of tenure we must take a short view of the nature of manorial holdings, so called from being the residence of the owner. The manor was a piece of ground held by lords or great persons, who kept for their own needs so much of the land as was necessary for themselves and their families. The balance of the land was distributed among their tenants, some of this land being granted by the lord to free men to be held by them as tenants in knight service, or in free socage, or by the

payment of certain rents. From these tenants have arisen most of the freehold tenants in England who hold of particular manors. Land not in occupation for cultivation was called waste land and as such might be used by all the tenants of the manor for common pasturage, for hunting, or gathering of fuel, though it still belonged to the lord of the manor. In addition to these freemen above mentioned, there was always on the manor a large class of persons who were not freemen but practically slaves, as they were not permitted to own property and could not leave the manor without the permission of their lords. These persons were called villens, and they had allotted to them for their dwellings and maintenance, part of the lord's demesne lands, or that part which he reserved to himself and family. Originally these holdings were held at the will of the lord of the manor and he called on his tenants in villenage for any sort of work that pleased him, and their services were not only base, but uncertain as to time and quality. From this you will understand that the villen was practically a slave. As time went on, however, most of the villens practically acquired freedom, and the usage of the manor, under the control and influences of the general law of the land, imposed restrictions upon the right of the lord to dispossess them from their holdings. The amount and character of the services they were compelled to render also became determined by the custom of the manor and these customs were entered on the rolls of the manorial courts, each manor having a court of its own in which the lord sat as judge. As such tenants had nothing to show for their lands, except these entries, copies of the rolls were often delivered to them as evidences to title, and they were called "tenants by copy of court roll," and their tenure was called a copyhold. In some manors there are copyholds of inheritance; in others they remain copyholds for life, all according to the custom of the particular manor. Tenancies by copyhold exist in England to this day. Many of these copyholders are descendants of former villens so that while their families sprung from a humble origin, they are very ancient and have a great deal of family pride. In passing, it is further interesting to note that all manors existing at this day must have existed as early as the reign of King Edward I, for the statute of Quia Emptores in 1290 abolished all subinfeudation, or the letting out of land to under tenants. The Magna Charter, passed during the reign of King John in A. D. 1217, provided that

no man should sell or give away his land without reserving sufficient to answer the demand of his lord. Before the Magna Charta, a feudal tenant who alienated the whole of his land merely put a new tenant in his place; but if he alienated only a part of his holdings, the effect was to create a new tenure by subinfeudation. This act was passed in the interests of the great lords, but it was found inadequate, and the statute of Quia Emptores, passed also at the behest of the great lords, denied all right of subinfeudation. Under it any freeman might dispose of all or any part of his holdings, but the taker must hold it from the same chief lord and by the same services. This act made the condition of land tenure far more simple and was the first approximation of feudal tenancy to the modern conception of ownership.

The three species of tenure we have described were certainly the most important lay tenures in England, though there were many others, such as tenure by grand serjeantry, under which the tenant held direct from the king, the tenure being based on some honorary personal service; tenure by petty serjeantry, where the tenant held direct from the king to whom he yielded some trifle in lieu of rent and services; borough English tenure; Burgage tenure, gavelkind, and a tenure called privileged villenage. There was also a frankalmoigne tenure, under which church lands were held in return for religious services.

All these various tenures drew after them, and carried various consequences and obligations. The military tenures were the most burdensome, carrying with them aids, (a payment on the marriage of the lord's son or daughter, or at their knighting), reliefs, (payments made to the lord upon the death of a tenant and the assumption of the tenure by his heir), primer seisen, (a payment to the king amounting to a year's profit on the lands, made by an heir of a tenant in capite upon his being seized of the fee), wardship, (the lord being entitled to custody of the land and the body of the heir until he or she became of age), marriage, (consisting of the right of the lord to dispose of his ward in marriage and the forfeiture to the lord of a sum equal to the value of the marriage, if the heir married without the lord's consent); fines for alienation, (the payment to the lord when a tenant conveyed his land); and escheat, (which was the right of the lord upon the death of a tenant without any heir, to hold the land

free from further burden of the tenure. In other words, the land went back to the lord.) The ceremony of investiture included the livery of seisen, or delivering actual corporeal possession of the land and the ceremonies of fealty and homage. Socage tenure carried with it many of the incidents of tenure of knight service, including aids, reliefs, primer seisen, marriage, wardship, fines, and escheats, but these incidents in the case of socage tenure, were made less burdensome, and its services were fixed, or rents were paid in lieu of all services. Fealty was part of the service of socage tenure, but homage was seldom rendered by a tenant in socage. The consequence of villenage, or copyhold tenure that it has in common with free tenures are fealty, services (in rents or otherwise), reliefs and escheat; the two latter belonging only to copyholds of inheritance.

For various reasons tenure in socage continued to grow at the expense of the other tenures, but the right of wardship, marriage and other feudal burdens pressed heavily on a large portion of the land holders. During the usurpation, all military tenures were discontinued, and after the restoration they were destroyed at one blow in 1660 by the statute of Charles II. This statute provided that all military tenures should be thereafter, tenures in free and common socage, and all burdens in favor of the lord, whether a mesne lord, or the king, were removed, with the exception of certain rents and one or two minor services. Fealty and relief in socage tenures had already become obsolete and the statute had no effect on these tenures except to do away with fines and aids. Escheat was about the only incident of the feudal tenure that remained. The result of this act was that all trace of resemblance of the relation between freeholder and lord passed away, except within the precincts of the manor, and the freeholder became for all practical purposes, the owner of the soil.

In the Colonies, (referring to the thirteen original states), the lands were granted to the colonial proprietors to hold in free and common socage, the services consisting sometimes of a nominal rent and sometimes there merely being the incident of fealty to mark the feudal relation. After the American revolution, the feudal position of the paramount lord, or king, passed to the states with other sovereign rights. However, so fundamental an alteration in the theory of property as the abolition of

tenure could hardly be brought about by a mere change of political sovereignty. Tenure still obtains between a tenant for life or years, and the reversion; and so in like manner in the United States, it is conceived that a tenant in fee simple merely holds of the state. In a number of states, in view of certain statutes and judicial decisions, tenure must be regarded as nonexistent. In this latter class of states, the statute of Quia Emptores is, of course, not in force, since in the absence of tenure, the statute is meaningless. In the other states, however, there seems good reason to assume the existence of tenure, and in these states the statute is in force and all tenure in them, so far as existent, must be directly of the state; there being no subinfeudation, which was prohibited by this statute. The single incident of tenure left is escheat, which means that the lands revert to the state in case the possessor dies intestate and without heirs. In the several states where tenure is denied to exist, it is assumed that the lands are held by the owners allodically and the escheat is the result of the statutes; yet the holdings cannot be strictly allodial, for all the titles certainly come from the state, or the government, and an allodial holding in land is one in which a man possesses absolute ownership in his own right without owing any rent or service to any superior. This much is certain, if there is any tenure between the owner of lands in fee and any other, that other is the state; for the Statute of Quia Emptores is in force prohibiting subinfeudation; and the state has taken the place of the crown.

If we take the position that no tenure exists between the owners of land in fee and the state, at least it must be remembered that some of the rights and interests in land are reserved to the state; such for instance, as the right of eminent domain, the strictly feudal right of escheat and certain regulatory rights affecting the public welfare. It is indisputable also, that the land laws in most of our states are based upon the common law of England, which holds good today, except as modified by our statutes, the chief innovation being the establishment of the community system of property which was taken from the Spanish law, and it has no counterpart in the common law of England. Under this system we have the separate property of either husband or wife, which includes property acquired before marriage, or property acquired by gift, devise, or inheritance after marriage, and the community property, which consists of property

acquired by either or both after marriage by onerous title, as it is spoken of legally, meaning property acquired by gift or inheritance. In Texas, as in some other states, we have also a homestead law, which is purely statutory and not of common law origin. Strictly speaking, a homestead is not an estate in land, but a right additional to and independent of the original right of ownership. It is merely an artificial estate in land exempting it from the demands of creditors.

Originally, we have seen that all tenure was by knight service, or military. Later scutages, or assessments, were allowed instead of personal military services and from these assessments the expenses of the government and the mercenary armies were paid. In England these scutages were gradually succeeded by subsidies and finally by the land tax, which latter we have adopted in the United States. It would seem at first that our tax on land is in reality an incident to the feudal tenure; but this is not the case. Under the feudal constitution, the services were absolutely a condition of the tenure, imposed by the sovereign when he granted the feud, and if the land holder did not live up to his obligations, his land escheated to the state. Taxation, on the contrary, is not a sovereign power, but a self imposed obligation voted by the people themselves through their representatives, for the support of the government; and though land taxes were adopted in England by Parliament in order to take the place of feudal dues, which had become insufficient to maintain the government, they were, we might say, a gift from the people to the crown, rather than an obligation imposed by the crown. Thus in England, land taxes, instead of being an incident of the feudal tenure, grew out of the insufficiency of the feudal system. In our own country, as we well know, our taxes are self imposed through our representatives in Congress. It is true that if we do not pay our taxes the government can get execution on our land through the medium of the courts; but when we get title from the state, we get an absolute title in fee simple without any conditions as to payment of taxes. Escheat to the state, if a man dies intestate and without heirs, is the only incident of the feudal tenure remaining.

Probably one of the most distinctive features of our land laws as established in England and brought to this country is the doctrine of estates, by which the duration

of one's right of possession of the land, with the incidental rights of user, is made dependent upon the character of the estate or interest one has in the land. In every piece of land there is an estate in fee simple in some person, or persons, and less estates may be created in favor of others. The creation of a less estate deprives the owner of the fee simple in a conveyance inter vivos has persisted though the estate in fee simple still persists. This doctrine of estates probably owes its place in English law to the feudal tenures by which the tenant was regarded as having an interest in land which was short of actual ownership, the lord having a possibility of the land reverting to him by reason of the termination of the tenant's interest, which presents the principle of the present right of possession in one person and the right or possibility of future possession in another. By the time of Edward I, estates had become to a certain extent differentiated so that there were three of them, to wit: The fee simple, the fee tail, and the estate for life. They might properly be called feudal estates because they were the estates which the feudal system recognized as carrying with them feudal dues and services, depending, of course, upon the kind of tenure under which they were held. They are commonly called freehold estates. In contrast with the freehold, or feudal estates, are the estates less than freehold, or nonfeudal estates. These are for terms of years, or estates at will, and their possession did not involve any feudal dues. In fact, they were not at first recognized as estates under the feudal system, and the tenant at will, or for a term of years, had no protection under the law. Let us pause here a moment to point out a characteristic of the feudal custom which is quite at variance to our laws governing ownership of lands.

In the laws governing real property today, the most important matter is ownership as distinguished from possession. Ownership is what contributes to the state in the way of taxes, and therefore, ownership is protected. Possession without some title of ownership is worthless, and the old saying that "possession is nine points of the law" has no legal force today. Under the feudal constitution, it was quite the reverse. The feudal estate depended absolutely on the rendering of services by the holders of land, and the only practical way of determining who was responsible for these services was to look to the actual physical possession of the land. Whoever was in

possession was the person from whom the feudal dues or services might be exacted. The maintenance of the state was based upon the services or dues of the person in possession and claiming the feudal estate. It follows inevitably, therefore, that possession was protected under the feudal system, just as we protect ownership today. Feudal possession was called seizen. Even at this day we find the influence of this feudal idea in the case of a squatter on a piece of land, who by fencing and using same, and paying the taxes thereon for a certain number of years, varying with the circumstances, gets a defensible limitation title to the land.

The most important estate, and practically the only one with which we have to deal in the business of real estate, is the fee simple. From the purely feudal viewpoint, this was an estate which passed upon the death of the one seized of it, to whoever among his lineal or collateral relations were his heirs at law; and when that person became seized in his turn of the fee simple and died, the land would pass in the same way to his heirs at law. An estate in fee simple was naturally created by this form of gift: "To A and his heirs." The phrase "and his heirs" expressed the intent that A and his heirs forever were to enjoy the land. In the earlier feudal period, when the fee simple was inalienable, its chief attribute as an estate consisted in its being transmissible by descent to that relation of the person seized who was his heir at law. This is the reason for the rule of the feudal land law that the use of the word "heirs" was absolutely necessary to create a fee simple. The use of any other expression resulted only in the creation of an estate for life. When a fee simple was made alienable by the Statute of Quia Emptores, every free man was enabled to sell his land at his pleasure; but the requirement that the word "heirs" was absolutely necessary to the creation of the fee simple in a conveyance inter vivos has persisted down to modern times, and is seen in all our deeds of conveyance in use today, though statutes have been passed in many states which have abolished the requirements, these statutes usually providing that any conveyance shall operate to transfer a fee simple, unless the contrary intent actually appears. An estate in fee simple is the modern expression of the holdings of a freeman under the old feudal system.

In our country, we also have what are designated as

life estates. Usually life estates are expressly limited to continue during the lifetime of the person taking the estate, or during his and other lives, or during the lives of other persons alone. Life estates may be created by will, or by conveyance, and such estates are called conventional life estates; or they may be created by the operation of the law, and such estates are called legal life estates. Thus, marriage will often give both spouses life interests in the lands of each other, though no express contract in relation to such property be made. An example of this is seen in the case where a man marries a woman possessing a home. In case of her death he would have a life interest in the home so long as he occupied it as a home. This is usually called tenancy by courtesy. In like manner, upon the death of the husband possessed of a home in fee simple, the wife would have a life interest in the home so long as she occupied it as such. This interest is called a dower right. These estates created by operation of the law, however, are really not genuine estates, but are a life interest in the property, which interest cannot be conveyed by its possessor. Under the Texas law dower and courtesy estates are not known as such, but the common law practice above mentioned is effective.

In addition to the estate in fee simple and the life estate, we have three other estates which it would do well to mention in this treatise. They are the fee simple subject to a condition subsequent, the fee simple determinable or base fee, and the estate in fee tail. Under the feudal land law, it has been permissible from the earliest period to create a fee simple subject to a condition subsequent upon the fulfillment of which the fee simple would come to an end and the creator of the fee, or his heirs, would have the right to enter and make a forfeiture. This right of entry on the breach of the condition, being a valid future interest in the land. A modern example of this kind of estate is found when a property is sold with the condition that if liquor is ever sold on the property, it shall revert to the creator of the fee. A fee simple determinable, or base fee, is a fee simple created to last for an indefinite time, namely, until a certain event should happen, when the fee reverts ipso facto to its creator, whereas, in a fee subject to subsequent conditions, the fee does not ipso facto come to an end upon the fulfillment of that condition, but does so upon the entry of the creator of the estate or his heirs. In this country we

have an example of a base fee where a gift of land has been made to a charitable corporation, which dissolves without transferring its property, for with the dissolution of the corporation, the fee reverts ipso facto to the donor or his heirs. An estate in fee tail, or entailed estate, may be defined as an estate of inheritance, which, if left to itself will, after the death of the first owner pass to his lawful issue so long as his posterity endures, and will terminate on the failure of such posterity. The Statute of DeDonis, passed in 1285, creating the estate in tail, was enacted in the interests of the great land owners who wished, by making the land inalienable in the hands of successive lineal heirs, to perpetuate their estates. Before long, this resulted in an intolerable condition, and many ways were evolved by which an estate in tail could be defeated. In England even now, however, by what is known as the Strict Settlement, estates are entailed and kept in the family. The Strict Settlement provides that during each generation the new tenant in tail shall consent to the inalienability of the estate, and in all well regulated English families the new tenant in tail does not refuse. In our country estates in tail have practically fallen into disuse ,though they are still recognized in a form modified by statutory enactments. We find for example, that it is provided in some states that language which formerly created an estate in tail shall be held to create a fee simple, while in others that by such language, a life estate only will be created in the first donee in tail, and the heirs of the body of such donee take the remainder as fee simple. The statutes in other states enable the tenant in tail to bar the entail by a conveyance in fee simple. These three last mentioned are, as has been suggested. seldom met with in the actual business of real estate, and for the purposes of this discussion are unimportant.

As we have pointed out, an estate in land signifies an interest in the land. Estates in fee simple and life estates are called free hold estates; and real property strictly speaking, is an interest in land amounting to a free hold. Estates that are less than free hold estates are properly not estates at all, but are regarded as a part of one's personal possessions, and are called chattel interests, or leasehold estates, being originally created bv an instrument called a lease. In this discussion, therefore, which interests itself only in real property, we have no place for estates less than free hold.

Having traced the history and development of real

property from its earliest beginning down to the present day holdings, our subject is properly ended. Real property is, of course, the foundation on which all subjects relative to the real estate business must be builded and all other subjects which will be studied in this course are supplemental to, and are developed from, holdings in real property. It is, therefore, of supreme importance, both from a practical and cultural point of view that we understand the meaning of real property. This we have tried to show through its historical development and it is hoped that we have accomplished that purpose.

In conclusion, let us repeat that the sense of private ownership is one of the earliest and most fundamental of all human instincts. And it is an instinct which has worked for the good of all mankind, for the progress of society has ever been connected with private ownership, and particularly ownership of land. No nation has ever grown and remained strong and virile where the land has rested in the hands of a few. Land means a home and a fireside and men fight for their home and their fireside. Henry Clay once said "when a man becomes the owner of his home, a new patriot is born to the nation." And there is nothing more true than this. So when a realtor sells a man a home, he has the double satisfaction of having served both himself and his country.

HISTORY AND DEVELOPMENT OF LEASES

By Frank L. McNeny.

A lease is a grant of exclusive possession for a definite term. It is an agreement whereby an owner yields possession of land and improvements for a certain term in consideration of rents reserved, and the tenant accepts possession under certain conditions and covenants.

The owner of the property is called the lessor. The tenant is called the lessee. Rent is the money or other thing of value paid by lessee to lessor for the use of the property. The thing that makes it profitable to own land or buildings in excess of what one can actually use for his own business is his ability to rent or lease them at a fair return on their value. So the question of rent alone in the final analysis fixes the values of real estate. There are other factors which temporarily have a bearing on the value, but ultimately rent is the yardstick by which all real estate values are measured, and real estate represents 60 per cent of the wealth of the nation.

Roman Origin.

The practice of leasing extends back to the early Roman empire. The rulers of the empire exercised absolute control over all of the land and apportioned it out among a favored few of the nobility. These became the landlords of that day and generation and it is assumed that this is where the term "landlord" originated.

These landlords having large areas which they were not able to cultivate or realize a profit from, devised a system of hiring the land out to the less fortunate ones. It is both interesting and surprising to know how like our modern day leases were the original documents by which the land was turned over to others for cultivation. The Romans had a long term lease called emphyteusis and a tenancy at will lease called precarium. This last corresponds with our month to month occupancy. These documents occupied to some extent the place of the landlord and tenant law of our present system. In those days the tenant was called the conductor and the landlord was called the locator. The landlord alone could sue in respect of the land but the tenant had a personal action against the landlord on the contract. The landlord was account-

able for any injury to the tenant arising from the defective condition of the premises. Under the law or custom of that day the landlord must permit the tenant to carry away not only moveables but even fixtures placed by the tenant, provided removing the same did not injure the building. A tenant of land was entitled to compensation for unexhausted improvements except such as he had specifically agreed to construct in consideration of lower rent.

English Feudal System.

Our system of leasing came to us more directly, of course, from England where a similar situation existed and does exist to this date with reference to the land. The English system is a product of the old feudal system of land titles as practiced in England, France and Germany in the early centuries. The king apportioned all land to the dukes, earls and marquises for a nominal rent amounting to practically nothing, probably a book, sword, or lance, or a sheaf of wheat. Of course not knowing how or caring to cultivate the soil, they in turn subdivided these vast holdings and leased to the barons who in turn subdivided still further and leased to the knights and landed gentry, and they to the yeomen, and the yeomen to the serfs, who actually cultivated the land, and as the use of this land passed on down from each overlord, the rental named was any amount that particular overlord desired to prescribe, and in addition to the rent he exacted whatever military service he chose. This condition continued from the time of the Norman conquest in 1066 through the reign of William the Conqueror and until the War of the Roses overturned the feudal system in 1485, seven years before the discovery of America, but the skeleton of that system is still to be found in the present landlord and tenant law of England.

In England today the ownership of all land is in the king and the highest interest recognized in any individual is an estate in fee simple, which, according to the English law is merely a tenancy. Custom, however, has made it practically an ownership. The vast majority of the land in England is still cultivated by men who do not own it. The real root of the present discontent is the absolute dominion of the class of owners who are not cultivators, but who, having the monopoly of the land, may impose on the tenants whatever burdens they please.

It was in England, however, that leasing became refined and very much in vogue, and much was done to better the condition of the lessee, notably during the reigns of Henry VII and Henry VIII, in the latter part of the fourteenth and early part of the fifteenth centuries, and from that time on leasing has flourished and been popular in England.

So far as we know, England is responsible for the 99-year lease. Just why for 99 years has never been ascertained, but there was a general practice to lease land for three generations, and a generation was considered to be thirty-three years, and so it assumed this is where the system originated. Then, too, it is believed there was an old English common law which prevented the leasing of land for a longer period than 100 years, and so 99 years came within the law.

Development of the Lease in America.

The evolution of the lease in America has wrought few changes except in long term leases, where totally different and rapidly changing conditions have made necessary numerous covenants for the protection of both lessor and lessee. These we will discuss later.

The lease form in common use throughout this country today is a brief and simple document. A perusal of it of it by a casual observer would very probably lead to the conclusion that it is a one-sided instrument in favor of the landlord, but on closer reading it will be found that the requirements of the tenant are just and fair. The covenants for the most part refer to the duties of the tenant for the reason that under the terms of the lease the landlord is only required to do one thing as a rule, and that is to yield possession of the premises for a given time.

Legal Restrictions.

Fortunately, the making of leases is not hedged about by a lot of legal restrictions. The laws of the country have left it largely to the contracting parties to make their own agreements with reference to contractual obligations and the law concerns itself merely with the enforcing of these agreements. This is as it should be. Man should be left largely free to make contracts of his own choosing with reference to his land and holdings, and it is the province of the law to see that these contracts are enforced. No law can be better than that.

However, there are one or two outstanding exceptions in this country. By statutory enactment in Maryland, a lease for a period of longer than fifteen years becomes redeemable after five years, at the option of the lessee. This law seems to have been the result of an aversion against long time leases in that state.

In the state of New York there is a law which taxes as personal property the rental returns from any lease of longer duration than twenty-one years. So the expedient has been adopted of writing the leases for twenty-one years with covenants and conditions with reference to renewals.

Term of Lease.

There is no limit to the term of a lease as a matter of law. It can be made for a term of one year or for nine hundred and ninety-nine years. Most leases are made for a period of from one to ten years. Some extend up to twenty-five years and some few up to fifty years. These, in addition to what is commonly known as the ninety-nine-year lease, and of which we shall treat later.

Created Verbally and in Writing.

A lease for one year may be created verbally, but for a longer period than one year must be in writing. Like all other contracts, a lease should clearly indicate the parties to, and the effect of the contract. It should contain sufficient description of the premises, words appropriately expressing the demise, the date on which the term is to begin, and end, the rent reserved, and how it is to be paid, the usual clause with reference to the care of the property, repairs, assignment, default, liability, fire, holdover and any special clauses agreed upon.

The landlord's interest in the rent remains real property, but the tenant's interest, no matter how long the lease may be, remains personal property.

Assignment.

A tenant's right in a lease may be assigned unless there is an express provision in the lease to the effect that it cannot be assigned without the consent of the lessor. If the landlord wants to protect himself not only against his tenant assigning, but against all assignments subsequent to the first, he must make express provision not only that the tenant shall not assign, but no subsequent assignee shall assign.

Obligations of Landlord and Tenant.

The landlord's obligation is to protect the tenant in the possession of the property which he has leased him. He must warrant and defend the title to possession against any adverse claimants. The tenant's obligation is to protect his landlord's interest and give him prompt notice of all matters which affect that interest of which he learns by reason of his occupancy. The tenant must be loyal to his landlord and is liable for damage if he is not.

Rental Payments and Holdover.

The lease is usually fixed upon the basis of an annual rental payable in monthly installments in advance and the lease ends of its own force without notice, on the date specified. If there be a holdover on the part of the tenant, and nothing be said on either side, the presumption is that he is a holdover as an annual tenant upon the same terms as the former lease. The relation having been entered into and the rent accepted, the landlord will be bound for another yearly term. Therefore for the protection of the landlord, there should be a clause in every lease to the effect that any holdover under the lease will be regarded as a month to month occupancy at the highest monthly rental named in the lease contract.

Termination of Leases.

Except at the end of the term stipulated in the lease, leases may be terminated by a voluntary offering of surrender on the part of the tenant and a voluntary acceptance of that offer by the landlord. Under such circumstances all obligations on the part of both landlord and tenant are ended. The tenant is liable for rent up to the time of surrender, but not beyond that.

Unless there is a provision in the lease that if the property becomes vacant the landlord may resume possession for the account of the tenant, renting the property to the best advantage and crediting the tenant therewith, but charging him rent up to the end of the terms, it may be implied from the act of the landlord in taking possession of the property when the tenant leaves it vacant, that there has been an offer of surrender by the tenant and acceptance by the landlord. Landlords who have taken possession of property in order to protect it from depredation, have found themselves in the position of having accepted surrender of the property. A verbal sur-

render and acceptance is sufficient, for it is not varying the terms of the written instrument, but is the limitation, or ending, of an obligation.

Dispossessing a Tenant.

A landlord can dispossess his tenant and get summary possession of his property for three causes.

First, if the tenant holds over after the expiration of the term.

Second, for non-payment of either rent, taxes or water rents, if the tenant has covenanted to pay these charges.

Third, for unlawful use of the premises.

For any other breach of the covenants of the lease, a landlord is not entitled to a summary dispossession, but must sue his tenant for ejectment under the lengthy process of action in court. In order to obviate that necessity, important leases are often drawn in such manner that all conditions of the lease which call for payments of any sort by the tenant are put in such form that those payments if they become owing, are made additional rent. For instance, if the tenant should be required to make repairs, or to comply with orders of municipal departments and fail to do so, the landlord is at liberty to do these things, and these payments thereupon become additional rent, collectable with and in the same manner as the fixed rental.

Repairs.

Unless it be expressly covenanted in the lease, there is no obligation on the part of the landlord to do anything in the matter of repairs. It is usually customary, however, to keep the roof in condition. All that is required of the landlord is to let the tenant occupy the premises. The tenant has a general obligation to permit no waste upon the premises, but is not obligated to make permanent repairs. He can let the premises go along in ordinary wear and tear until they are worn out. The tenant is usually required to pay his own water rent, light and heat bills, except that these things are always furnished in office buildings, and heat is furnished in large apartment buildings with heating plants.

In Case of Fire.

The usual fire clause provides that in case of fire the tenant is to give notice thereof immediately to the landlord, who shall cause the damage to be repaired as speedily as possible. If the damage be so extensive as to render the premises untenantable, the rent shall abate until such time as the premises shall have been put in proper repair, and thereafter the tenant shall again pay the rent and have no obligation of cancelling the lease. If, however, the building be totally destroyed, the rent shall be paid up to the time of the fire, and then and from thenceforth the lease shall cease.

Liability.

All leases should contain a liability clause wherein the lessee agrees to indemnify the lessor and save him harmless from any and all damages to person or property arising or growing out of the occupancy or repairing of said property, or caused by the neglect of any tenant on the demised premises or due to the building or any part thereof being improperly constructed.

Ninety-Nine-Year Leases.

In the last fifty years there has grown up in this country a decided tendency toward long term or ninety-nine-year leases. In these instruments the lease has probably reached its highest state of perfection, for great care and thought has been given them in trying to protect property against all the contingencies which may arise over such a long period. In some sections they are called ground leases because most frequently the ground is leased and the lessee is required to erect a substantial improvement within a given time. Then, too, the rent is usually based on a net return of 5 per cent or 6 per cent on the ground value. Of course it is impossible to determine what the ground value will be over such a period, and so the lease usually provides for two or three graduations in rent, or for re-appraisals of the property at given intervals.

There are many advantages to both lessor and lessee in ninety-nine-year leases and this is why they are regarded as safe and just. The business man who wants a home for his business is enabled under a lease of this character to rent the land at the same rate of interest which he would have to pay for borrowed money to make an outright purchase, and can therefore keep this money in his business, or use it with which to erect a new home for his business on the lot which he leases. In this way one is enabled to borrow capital direct from the owner of

the land and pay interest on the investment in the form of rent.

While the graduations in rent reserve to the owner a portion of the enhanced value which will accrue to the property, the lessee justly receives his fair proportion of this increment. He takes the chance usually of going into a new district and spending large sums of money for the improvement which he is required to make, and thus improving and helping to create a new district, he is entitled to his reward.

Any number of cases can be shown where a far-sighted merchant has leased a larger piece of ground that was necessary for his business, improved it with a nice building in keeping or probably ahead of the district in which it was located, sub-leased that portion which he did not desire for his own business, and through the increase in value has more than made his rent free.

But let it not be understood that all the advantages of a long lease accrue to the lessee. Far from it. Take the owner of a valuable piece of property down-town, who has not the money with which to properly improve it and does not want to borrow the money. By leasing it to responsible parties, the owner gets an improvement erected, enhances the value of his land, increases his rent, and in so doing acquires a magnificent investment, as a choice piece of city property under long term lease, appropriate improvements having been already erected to secure the lease, is considered one of the best investments procurable anywhere.

Some times an owner prefers to lease rather than sell for the reason that liquid assets are dangerous. If he sells and converts his property into cash and notes, he might not be as fortunate in the selection of another investment. The funds might be invested in the stock of some individual concern depending upon individual management which might not always return a good rate of income. Under his lease, however, he is always assured of a good income, retains the title to his land, and can, of course, sell it at any future time.

Frequently an owner wants to provide for the maintenance and education of his children. By placing a long term lease on his land he can provide that the administrator or trustee of his estate shall collect the rentals and apply them to the needs of the children as they grow up. When the children become of age, they can dispose of the

fee and divide the proceeds as their interest appears. No lesser authority than Blackstone approved of long term leases, stating that they enabled owners to make settlements on their children and also enabled them to borrow money without disturbing the fee to the land. Of course when a lease is made requiring the lessee to make a substantial improvement, the owner is in effect borrowing the money from the lessee with which to improve the property, without giving a mortgage or lien of any kind on the land.

One of the greatest advantages to the lessor is the fact that he is relieved of the paying of taxes, insurance, and all kind of carrying charges, repairs and alterations. But so much for the advantages to the owner. They might be continued ad infinitum.

In addition to all of the clauses of a short term lease there should be inserted in a ninety-nine-year lease a clause making the lease a net one, providing that the lessee shall pay all taxes and assessments of every kind and character against the property, excepting only income and inheritance taxes.

There should be a clause providing for the erection of the contemplated improvements within the time agreed upon and this clause or another should also provide that the lessee shall deposit with the lessor sufficient security to guarantee the erection of the improvements, the security to be returned to the lessee after the improvements are completed, free from all liens.

The fire clause should provide that the building be kept insured in responsible insurance companies to the extent of 80 per cent of its value, and that the policies be deposited in a bank or trust company of lessors choice. The payments under the policies, if any, are to be available to the lessee upon architect's estimates for restoring the destroyed building, and in the event the insurance money is not sufficient, the remainder must be paid by the lessee.

The clause in most ninety-nine year leases referring to the payment of rent, requires that the same shall be paid in "gold coin of the United States of America, of the present standard of weight and fineness, or its equivalent in other legal tender." This, to my way of thinking, is distinctly wrong. There is no reason why the lessee should guarantee that the value of the American dollar will always remain the same. Under such a lease if the American dollar should decline as low as the British

pound did recently, the lessee would be paying practically double the rental he contracted to pay. The clause should read that the rent is payable "in lawful money of the United States of America." This is fair to both parties.

In conclusion, let me call your attention again to the fact that a lease is a contract by which a return is paid on more than half of the invested capital of this country, as real estate represents more than 50 per cent of the wealth of the nation. Therefore, too much care and thought cannot be given to the proper preparation of leases.

Duties of a Realtor.

It is the duty of a realtor to properly present the property of his client, the owner, to every prospective tenant, and to use every legitimate means of securing a desirable occupant for the property at the very best price the market will bear. If he is a well-posted realtor he has made a careful and thorough study of basic conditions and the various elements that enter into the sale and rental value of real estate, he has studied the arteries of traffic, the congested districts, the transportation facilities, the various sectional developments, and the numerous other things that bear directly or indirectly upon realty values, and so he is in position to present his proposition in a scientific manner. If a lease is consummated it is his further duty to see that every interest of his client is properly safeguarded. For this service the realtor receives a commission based on the amount of the rental. The schedule of commission varies in different sections of the country but on a ten-year lease, for instance, it usually amounts to about 2 per cent of the aggregate rental. This charge, however, does not include monthly collections.

REAL ESTATE ADVERTISING

By Lawrence Miller

We shall not attempt to go extensively into the technique of advertising. This is a big subject in itself, and the writer is not an Advertising Expert, but a Real Estate Broker. So our subject will be confined to Why, How, What and Where to Advertise Real Estate.

Let us first answer two direct and simple questions: What is Real Estate? and Why Advertise?

Real Estate, broadly and briefly speaking, is Land and Buildings. It may be a hundred-thousand-acre ranch or a forty-acre farm; it may be wholesale or retail business property, an office building or a warehouse, a vacant lot in an outlying addition or a building site on the boulevard; it may be a bungalow, a palatial home, or an apartment house. Its value may be Two Hundred Dollars or a Million.

Now, all the land in all the world is parcelled out and belongs to someone. Portions of it are owned by states and nations, but most of it is owned by individuals, or groups of individuals. How was this individual ownership of most of the earth's land area acquired? In one of three ways: by gift, by inheritance, or by purchase. If you own a piece of real estate, it was given to you, or left you by someone who died, or you bought it from somebody else. If you acquired title by purchase, it was probably through a real estate broker—or Realtor, as every member of a local board affiliated with the National Association of Real Estate Boards is now known—and perhaps you were attracted to the particular property through an advertisement.

Which leads us to venture an answer to our second question, "Why Advertise?" Simply to call to the attention of the greatest number of possible or probable purchasers, in the quickest and most effective way, a certain piece of property which is offered for sale or lease.

Before proceeding to a discussion of HOW to advertise, let us stop and consider what MOTIVES people have for buying real estate. They buy:

1. With the hope or expectation that they will make money or save money, or perhaps do both;

or 2. For a home;

or 3. For the location of a business or industry;

or 4. For investment;

and sometimes, to protect a property already owned, or to provide for present or future expansion.

So, in writing an advertisement of a particular piece of property, appeal to the motive or motives which will most likely challenge the interest of a prospective purchaser, prompt him to go to the telephone and say, "I would like to see the property you are advertising in this evening's paper." Read your ad before you write it! That may sound absurd, but what is meant is this: Put yourself mentally in the place of a prospective customer; then write into your advertisement all the information which you as a buyer would like to know and that would create in you the desire to own the particular property advertised.

The manufacturer of a patent weather strip launched his product with enthusiastic copy and sales talk about the cleanliness and warmth of the "weather-tight home." But people did not buy. Then he changed his approach and pictured a house where dust and disease-laden floor drafts constantly THREATENED THE HEALTH OF THE CHILDREN. Immediately sales picked up. Unconsciously he had reclassified his product and changed the basis of his appeal from a lower to a higher motive. He secured extra expenditure from his prospects by making them feel the disadvantage, the danger, of being without his product. His former appeal to mere comfort and pride had nothing like the selling force of this appeal to the more potent motives of caution and parental love.

So, it is important in writing copy for real estate or any other kind of advertising to make your appeal to the most potent motives one could have for buying the property or the product advertised.

Now, if your advertisement has honestly stated the facts, has given sufficient information to present a correct mental picture of the property, and is clear as to price and terms, your sale is half made when the reader of the advertisement asks to be shown the property. If on inspection your customer finds that the advertisement has understated rather than overstated its attractiveness

and advantages, you have made a sale. If, on the other hand, the advertisement has led your customer to expect more than he finds, the chances are that he will not buy the property, and you will have lost the cost of the ad, valuable time, and what more, the confidence of a possible client.

As John Ruskin once said, "Do not let us lie at all. Do not think of one falsity as harmless, and another as slight, and another as unintended. Cast them all aside. They may be light and accidental, but they are ugly soot from the pit for all that, and it is better that our hearts should be swept clean of them, without one care as to which is largest and blackest."

So let us remember always to be truthful in our advertising as well as honest in all our personal contacts. That is the only way to win the confidence of the public, and once having gained that, advertising can easily be made one of the chief factors of success in the real estate field.

What should a good real estate advertisement do? It should sell or go as far as possible towards selling the particular property advertised.

So let us now consider what sort of advertisement to write—just what is best to say and how best to say it—in order to arrest attention, create interest and arouse desire on the part of the reader to buy, or at least make inquiry concerning the property advertised.

Let's start with the listing of a piece of property. An owner of a brick cottage in Belmont comes to your office and says, "I understand you have sold quite a number of houses in my neighborhood. I am leaving the city in a few weeks and want to list my home for sale."

"Thank you, Mr. Owner, we will fill out this listing card and I will personally inspect the house this afternoon if convenient to the folks at home. Then, if in my judgment the property can readily be sold at your price through diligent effort, I shall ask the exclusive sale for, say, thirty days."

"But," the owner begins to protest, "I do not want to give anyone the exclusive sale. I am anxious to sell quickly and intend listing the property with four or five agents."

Then it would be proper for you to say: "For that very reason I would suggest that you list the property ex-

clusively. It is much better to have one agent working industriously and loyally in your interests than to have half-a-dozen who, knowing that each one of them has but one chance in six to realize on his advertising and efforts, will work only half-heartedly and seek only to "get an offer" and then try to beat down your price. Furthermore it is positive injury to property to have it promiscuously advertised and offered around. It soon becomes familiar and cheapened in the eyes of prospective purchasers. List your property with the one agent who you have reason to believe is most likely to get results for the particular class of property you wish to sell or lease, and he will give you the benefit of every ounce of loyalty, knowledge, and ingenuity he may possess."

It may appear that I have strayed somewhat from my subject in presenting this argument for exclusive listings, but it is intended to answer the question of "What to advertise?" If every Realtor in any given community would adopt the policy of advertising only such properties as were given him exclusively for sale and will accept an exclusive listing on only such properties, after personal inspection, as he conscientiously believes he can through advertising and diligent effort sell at the price given, it would redound greatly to his benefit as well as that of the owner. More sales and quicker sales can be made through exclusive listings and at a great saving of time and duplication of effort.

Having listed the property exclusively it is now your duty to use all reasonable diligence to make a satisfactory sale as soon as possible. The greatest aid in finding a purchaser is Advertising. Have a commercial photographer go out immediately and take a picture of the house showing front and side view, preferably from two angles. Have two prints made, one unmounted from which to make a newspaper cut, the other to be placed in your office to show to prospective purchasers. If the picture presents an attractive and clear cut view of the house, place it at the top of a display ad in either a Sunday Morning or Week-day afternoon daily newspaper. Two column, 10 inches, or three columns, 8 inches, is sufficient for a pleasing display and not too expensive for advertising a $12,000 brick cottage.

The copy would read about like this:

Make Your Family Comfortable for Fall and Winter
In this Stoutly-Built, Furnace-Heated, Brick Home.

Location: No. 1820 Belmont Avenue, within one block of car-line and two blocks of Greenville Road. A home in keeping with its attractive surroundings. Lot 50x200 feet. House contains living room, 16x22, large dining room, kitchen complete to the last detail, 3 cheerful bed-rooms, cozy breakfast room, tiled bath, ample closet room. Hot air furnace, easily operated, plastered walls, hardwood floors, pleasing architecture.

The only thing lacking is garage and servant's quarters, which would cost to build from $800 to $1,200.

Owner leaving the city permanently, has made a price of $12,000, on terms of $4,000 cash, the balance in convenient payments at 8%.

Phone for appointment (name, address and phone number).

Exclusive Agent.

The question of where to advertise involves territory and mediums to be used. As to territory, except it be a big ranch or colonization proposition, I would suggest that real estate advertising can best be confined to local territory, that is, if the property is located in Dallas or within a fifty mile radius, then the Dallas or Fort Worth papers would be best to use. If located in San Francisco or within a fifty mile radius, then the San Francisco or Oakland papers would be best to use.

Real estate lends itself readily to newspaper advertising. There are a few other mediums which can profitably be used, such as direct mail advertising and particularly "For Sale" and "For Lease" signs on listed properties, but newspaper advertising gets the attention of the greatest number of people at a minimum of cost and in the quickest space of time. Display advertising in the local newspapers can frequently be used to advantage especially on higher class properties listed exclusively, but the most direct and least expensive avenue of approach is through the classified columns under the proper heading. A reader interested in the purchase, sale, or lease of any kind of property is likely to turn first to the classified columns of his daily newspaper where he knows he can readily find, properly classified, a list of

properties of the general character he is seeking. If he finds your name among the rest and the particular property you are advertising seems to strike him better than some other, you are in a fair way to make a sale. If you are not represented, it is almost as if a customer called at your office and found the door closed with a placard on the outside saying "Will return later." You may, but he will not.

Next in importance to newspaper advertising is the proper placing of signs, preferably a neat metal or board sign, on vacant lots, and "For Lease" cards on vacant buildings. Occasionally an attractively painted bill board in a prominent location or a cloth sign on a building not only attracts attention to the particular property but is good for general advertising, providing it does not mar a beautiful landscape or protrude itself obnoxiously in an otherwise desirable neighborhood. Personal or circular letters to a selected list frequently can be used to advantage in presenting certain properties.

If it so happens some day that you are given the exclusive handling of a large residence addition, or industrial sub-division, which will warrant the expenditure of several thousands of dollars in advertising, my advice is to do as I would do, employ the services of a capable, reputable, local advertising agency to write and place your advertising. They will know how to do it much better than you or I to get the best results for the money spent. That is their business. Yours and mine is to sell and lease real estate, not to advertise.

Someone has said, "A people without vision will perish." Well, a Realtor without vision may not die right away, but he cannot survive long. He must believe in his city and his state, and have faith in their future. He must believe in Real Estate, and realize how great a place it holds in the great scheme of things, that it represents more than half the wealth of the world, and is the one thing with which every man and woman is concerned, either in the capacity of landlord or tenant.

Ask Real Estate herself who and what she is, and she will answer:

I AM REAL ESTATE

I am the basis of all wealth.

I am the foundation on which have been reared the civilizations of all the ages.

I am the pawn for which kings and emperors and legions without number have fought.

Centuries ago boundary lines were drawn across my surface, and I was portioned out among tribes and nations; property rights were established, society came into being, and chaos gave way to law and order.

I am the farm, the mine, and the forest.

You need but to "tickle me with a hoe and I laugh with a harvest."

Plant a grain of wheat or corn, a seed of flax or cotton, on my broad bosom, and I reproduce a thousand-fold, furnishing food and fabric for all the children of man.

From my depths and mountain-sides are mined all the useful and precious ores and metals.

In my forests are hewn the timbers which pass through lathe and plane into the palace of the prince, the house of the merchant, the humble home of the poor.

I am the Great City, where hundreds of thousands crowd, and men bid vast sums for the privilege of calling a few square feet their own.

As the population of the earth continues to grow, I shall be in ever-increasing demand for my area does not expand.

People must live and I am the source of all sustenance.

I bear the burdens of taxation, for the expense of government and the welfare of the people.

While but few comparatively among men claim title of possession, I am Servant of all Mankind.

I do not run away. I cannot be carried off. Fire nor the elements can destroy me. I stand through the ravages of Time.

And for these reasons am I called Real Estate.

REAL ESTATE SALESMANSHIP

By Porter Lindsley.

The Art of Selling Real Estate.

Salesmanship has received unlimited attention on the part of a great many business houses and schools of salesmanship, and books on selling have multiplied greatly in the last few years, but very little has been written for real estate salesmen.

The art of salesmanship begins in the mind—Think success—think confidence. This thought in your brain will show in your face; the greatest factor in selling is personality, and personality is made by thoughts.

Real Estate Salesmanship covers saleswork in a much broader sense than the usual term implies.

A real estate salesman not only has to sell the purchaser, but has to sell the seller on the idea of selling at the same time he has sold the buyer on the idea of buying. As a rule, this is considerably harder to do than most people imagine.

It has often been said that real estate salesmanship is a "knack" rather than sales ability. While some men seem to be "Born to the Job," experience is necessary to properly educate and "round out" a real estate salesman, as there are many legal phases to the business.

After knowledge of realty values, the real basis of successful salesmanship is securing and retaining the confidence of the public.

A Real Estate Salesman must have the necessary qualifications and ability to sell real estate himself without a great deal of help or assistance, because he is alone and out of the office with his prospects practically all of the time. The office or firm can give good support, but it is up to the salesman himself to actually close the deal.

The biggest job of the real estate salesman is to keep up his courage and enthusiasm; keeping his mind stimulated to get the best daily results.

It seems to be the idea of prominent real estate men that the average salesman does not work at his best capacity more than twenty-five per cent of his time. If this

be true, think what wonderful results could be had by a salesman properly applying his time.

It is very easy for a real estate salesman to get discouraged and blue. The man without a natural happy disposition should not engage in real estate salesmanship.

Real estate salesmanship should appeal to ones judgment, sentiment, duty, love of home, and should arouse all the best and patriotic instincts in a man.

Initiative is one quality a real estate salesman must have to make a success. He must face many situations that have never risen before and must solve them for himself. He must do something quickly, or some other salesman will sell his prospect.

Another quality is Tact, the ability that enables a man to deal with other men of different temperaments in the right way, and get along with all of them—Tact is not so much what a man says, but "how" he says it.

The elements of real estate salesmanship can be discussed under six subjects:

1st: The Man or the Salesman.
2nd: Getting Prospects.
3rd: Securing Confidence and Presenting a Proposition.
4th: Closing Contracts.
5th: Listing Property.
6th: Holding Clientele.

No. 1.

The Man or the Salesman.

The successful real estate salesman must be a student of human nature, and be able to converse in a correct way with men and women of all classes. He should be a student of business problems, both financial and commercial. He should know his City from "A" to "Z."

The successful salesman must first be sold on himself, be honest, ambitious, having determination, energy and concentration.

A few certain rules for any salesman are: Work all the time—Be neatly dressed with clean collar and tie, clean shoes, finger nails and teeth. Did you ever stop to consider how you would appear talking to a prospect with your mouth dirty? Make it a rule never to smoke while

talking to a customer—Your smoke might be so obnoxious to him that he cannot keep his mind on what you are saying to him—"Sales take place in the mind of the buyer." A salesman will be known by the class of persons he associates with; therefore, select your friends with care.

A salesman should never discuss himself to his client, but should on the contrary, direct his conversation so his prospect will be led to talk about himself, his business, family or hobbies. Then be a good listener.

Be dependable. Always keep your appointments promptly. Be early, if possible, and never late. If possible always make your appointments to call for your prospects instead of waiting at your office for him to come to you. This will save you a great deal of time, and time is a large portion of your capital.

A very successful salesman told me his rule was as follows: He said that he decided, when he started in business, that if he consistantly put in his TIME, working on intelligently selected prospects, that the law of averages would insure him success. And it did. The essence of his success was his appreciation of the value of his TIME. It was his capital, and its intelligent investment brought him success.

No. 2.

Getting Prospects.

In my opinion, there are three very important ways of getting prospects, the most important of which is from personal reference, and others from signs on properties and newspapers advertisements. A real estate salesman should always keep uppermost in his mind the proposition of having the confidence of the public, and especially his clients. A satisfied customer is the best advertisement any business man can have, and every time a real estate salesman makes a deal, he has two customers, the buyer and the seller, both of whom will have many opportunities of sending him new prospects, if their dealings with him have been entirely satisfactory and pleasant.

I think it wise to spend more time in an effort to find a suitable property for a prospective buyer, rather than trying to find a buyer for a particular property you have to sell.

No. 3.

Securing Confidence and Presenting a Proposition.

In offering your property, be careful not to overstate its advantages. This is where real salesmanship is demonstrated, because this is where the prospect usually forms in his mind his opinion of you as a salesman, and usually comes to the conclusion as to whether or not he expects to do business with you. If you are honest and careful in the presentation of your properties you gain the confidence right here of the buyer, but if you do not know your properties well and make statements that afterwards, upon inspection of the property, prove not to be altogether correct, the prospect will be on the defense and will not work with you, whereas, if you have his full confidence, he will work with you and be easier sold. Nothing will instill confidence in the purchaser more than the knowledge that the salesman who is endeavoring to sell him is thoroughly familiar with the property from every angle.

You should not only tell the truth about a property, but you should be careful to state the facts in such a way that an untruth cannot be inferred therefrom. Clearly cover your proposition, but never argue with your prospect; agree with him or dodge the issue.

In presenting a property, you should first sell the prospect on the community or the section of the city in which you think he should locate. When a man purchases a home, he really should buy community first. A fine home in a poor community is a bad investment. A modest home in a good community is much more valuable than a fine home in a poor community.

Second: After your prospect has decided on the community or section of the city in which he desires to locate, he should be sold on the street in that community. At the present time when a large amount of property is restricted, and in all probability the entire city of Dallas will soon be under control of a zoning ordinance, different streets will be used for different purposes, and different kinds of improvements, so it is a very important matter that a buyer should decide on which street in the community he should purchase, as the restrictions on that street will control the way in which the property can be improved.

Third: After deciding on which street he desires to locate, there comes up the proposition of which particular

block on the street is best suited and most desirable to meet the requirements of the purchaser.

After deciding on the street and block in the community, the selection of the house itself is to be considered.

Do not show the property to the man or woman, and then leave it up to the one shown to sell the other party. Stay with the one you have shown the property to and sell the other party yourself. Don't ever delegate your sales work to one of the interested buyers. The interest and desire to buy must be aroused in the second party as well as the first, and there is no doubt but that a salesman can do this as a general rule better than one of the prospective buyers.

It is known to real estate men that the unknown adviser is the biggest "bugaboo" in the real estate business. This unknown adviser might be a banker, friend, architect or builder who wants his friend to build, rather than buy a place already built, or a friend not interested in real estate investments, but more interested in investments in stocks and bonds. The National Association of Real Estate Men are considering a national campaign in papers and magazines to sell real estate to the public, in an effort to combat the evil of an unknown adviser.

Give special attention to the member of the family whose decision will have the most weight, but never overlook the member of the family who must foot the bill. A salesman should center his efforts on the property most likely to please the buyer, only showing such other places as will prove his reason for urging the purchase of the one selected. When a salesman finds that he cannot sell the place selected, it is then time to select another place in view of the additional information now in hand. It is natural to follow the lines of least resistance and try to sell the place that appeals best to the prospect.

Don't think, however, of switching a prospect from a property to which only minor objections are made. The cases are extremely rare in which a prospect is exactly suited in a property, as no property is perfect.

A most important rule forbids trying to give attention to more prospects than you can properly attend to. Many salesmen fail to succeed by trying to cover too much ground. Don't believe for a second that you can sell everybody that you hear is in the market. Concentrate your efforts and do justice to a selected list of prospects.

Service should be the watchword for a successful career of a real estate salesman. A salesman that renders true service first need have no fear about monetary results.

No. 4.

Closing Contracts.

Don't talk too much; give the prospect time to make up his mind so when you try to close with him he will have had time to gather his thoughts together and not put you off by saying—"Well, I'll have to think it over further." The climax to every sale is when the prospective purchaser signs the contract.

By the time it comes to the proposition of closing a contract on the property selected, it will be much easier to get your prospect to put up a deposit and sign a written contract if you have secured his confidence and the prospect feels that you are properly caring for his interests. A large deposit is very often helpful in the final closing of a deal. It is unwise to discuss commissions with your purchaser unless the subject is brought up by him. It is often helpful in getting a prospect to sign a contract to agree to submit an offer for less than the asking price rather than standing pat too long on your first price. In this way you can get the prospect to agree to sign a contract to submit to the seller quicker than holding out for a stated price, then if the offer is not acceptable to the seller, it is very much easier to get the prospect to raise his offer a little, as he has already made up his mind by this time to buy the property. As a rule he feels disappointed if he fails to consummate a deal after having made up his mind to purchase. In all probability the wife has already planned how she will place her furniture in the house, and both the husband and wife have a mental picture of just what they will do with it, and how they will occupy same, and would rather pay a little more than be disappointed in not getting the property.

A contract for the sale of a home should always be signed by both the husband and wife. Under our Homestead Laws in this State, a wife cannot be made to sign a deed to the home, but after signing the contract, she is morally bound to deliver, and in most cases will deliver, although she may regret having sold.

After the contract has been properly executed by both buyer and seller, too much care cannot be taken in the final closing of the deal. The agent or firm making the

deal has an obligation to both the buyer and seller to see that both parties are properly treated and the deal closed on the proper basis with complete statements made to both the seller and buyer. It is always a good rule to keep a copy of all statements affecting the closing of deals, as in future months or years, either the buyer or seller might call on you for information as to the detail of how a particular deal was closed.

A large number of real estate offices maintain a Conveyancing Department that gives its entire time to the final closing of deals, thus leaving a salesman's entire time to be devoted to actual selling. An efficient and careful conveyancing department can do a firm a great deal of good, or a careless conveyancer can do a great deal of harm, as it depends upon the final consummation of the details of closing a purchase or sale, as to whether or not the buyer or seller goes away with a good taste in his mouth, and the proper feeling towards the firm.

Real Estate brokerage business is becoming to be realized more and more as a profession, as better methods of getting results are employed. Leave no doubt as to the commission you are to receive, the lack of which might cause a misunderstanding after you, as a salesman, have completed your part of the transaction.

No. 5.

Listing Property.

Among real estate men, it has often been said—"Property well listed is half sold." I think this is true. I am in favor of exclusive listings and would rather have ten good exclusive listings to advertise and work on, than to have 100 listings that are not exclusive. The average real estate office is burdened with too many listings that are not saleable. It is not necessary to try and get a property listed at what you consider an extra cheap price. A good listing should be a property first in saleable condition, and second, at a reasonable price. Don't try to think too much for the buyer. What you might consider a bargain, your customer might not want at any price. I believe most salesmen make the mistake of trying to think too much for the buyer. There are millions of different types of homes that suited some one or they would not have been built.

No. 6.

Holding Clientele.

Remember that the owner for whom you are selling is your client; insist on a square deal for the buyer, but do not lose sight of your obligation to the one who is paying you your commission. Some people wonder how a salesman can advise a seller to sell and at the same time advise the buyer to buy a particular property. As a rule the seller has a reason for selling and the buyer buys what suits his needs, so there are always plenty of arguments why a person should sell that wants to sell, and reasons why the buyer should buy, provided the property meets his requirements, and a salesman should not try to sell a customer property that does not meet his requirements. There are enough offerings for a purchaser to always select several properties, one of which will meet his requirements.

Treat your competitors fairly, and they will treat you in a like manner. If they should not, they will be boosting you to their own disadvantage. Never knock a competitor. Remember that he is in your own line of business, and that the standing of the real estate business is what the real estate men themselves make it. Always work for a legitimate commission. Don't try to make more than a fair commission. This should be strictly adhered to, except under extraordinary circumstances, and then more than the regular commission should not be made unless with a thorough understanding with the parties involved.

There is no trouble in holding your clientele, provided you abide by the "Golden Rule"—Honest and Honorable dealing will hold and build up your clientele. A good motto for a real estate man is "Close every deal, so, under similar circumstances, your customer will be glad to deal with you again." And, a good slogan for a salesman is—"If I don't sell my customer, I'll blame no one, but will seek to improve my salesmanship."

I might state in closing that a real estate salesman is in a similar situation to a Doctor. His time belongs to the other fellow. You must go with the prospect at his convenience, whether it be Saturday afternoon or the average holiday. Quite a few people in business can only look at Real Estate investments "after hours," and this

is a time when a large number of real estate salesmen get in their best work. Most any business man will gladly discuss real estate in the evenings at home when the mind is off of his regular business. People in general like to discuss real estate conditions as they realize it is considered "The basis of all wealth," and the safest place in which to invest money.

It is the opinion of realtors attending the National Association meetings, that Sunday selling should be discouraged.

REAL ESTATE LAW

By George T. Burgess.

Material things regarded as the objects of legal rights belong to either one of two classes, i. e. they are either (1) land or things annexed to the land as to be considered a part thereof, or (2) movables. This classification of the objects of rights, based as it is on an essential difference in their character was recognized in the Roman law and all systems derived therefrom. But in English law it attained a peculiar importance by reason particularly of the extended developments of the doctrine of estates in common with land.

Land being fixed and immovable and capable of being made a subject of uses or estates at different times has given rise to the great body of law known as the law of real property or those rules of actions governing the ownership, use and disposition of the soil. And having a fixed location, it is subject only to the law of the forum or of the sovereignty in which it is located. Not being subject to wear, removal or destruction, estate rights and ownership therein are fixed and governed by the law of the sovereignty and of the time when such estate rights and ownership begin, and thus the laws affecting titles to real property are at all times in effect for the estate and rights of the owner are created by or arise under the laws in force at the time of the creation of the estate or the acquisition of ownership; and though such laws may be thereafter repealed, modified or changed yet the ownership or estate must be determined under th law as it existed at the time of their creation or acquisition. And while, generally speaking, the real property within the geographical limits of a particular Sovereign is governed by and subject to the law of the sovereignty, yet accurately speaking this must be understood to mean the law of the sovereignty at the time. Thus in a great part of the State of Texas, titles emanate from the Crown of Spain and in another part from the Republic of Mexico; and the laws of Spain and of Mexico in force at the time of the acquisition of those titles are as effective and as binding in Texas today as any Act passed by the present government.

At Common Law growing out of the Feudal idea, all

lands were held as of right by the King or Sovereign and by him granted in consideration of a service to the State, or favors to the Crown, and upon conditions of service. And so in the law of real property we speak of the source of title as the sovereignty of the soil. This doctrine of the "Sovereignty of the Soil" has been carried in the American jurisprudence and the title emanates from the State of Sovereignty first having jurisdiction in the geographical limits in which the land is situated. If a part thereof be acquired from any sovereignty, then the acts of the former sovereign and the laws passed regulating the estates in and the rights to land must be respected and observed.

Land, by reason of its fixity and immovability, is the subject of use at the different times and by different parties, and for different and various purposes. And thus there sprang up at Common Law what is known as "Estates" in land stretching from the absolute ownership to the possessor at will or sufferance. The absolute ownership being designated as the "fee simple." Other estates being estates for life, upon condition, lease-hold, at sufferance and at will.

Estates are created or arise either by contract of the parties or through operations of law. Man in the natural state held no estate in or title to land other than the possession, one being entitled as a natural right to the possession of that which he was using and for the maintenance of himself and family. But increase in population and establishment of civil society governments for well-being and peace forced society to recognize the right of private ownership and to provide for the disposition of the lands upon the death of the owner or possessor; and hence we have in all jurisdictions statutes regulating title upon descent and providing how and in what manner the land shall be distributed amongst the heirs of the owner.

Marriage brings with it rights and duties, and so in every jurisdiction we have laws regulating marriageable rights in land.

At Common Law, and by "Common Law," we mean the Law of England, there were Estates in Fee Simple, which meant absolute ownership; Estates in Tail, which was an estate for life in one with the limitation of the remaining estate in the heirs of another for all time; estates in tail were limited either to the male heirs of such a one,

or to the female, or to the line of heirs resulting from the marriage of particular persons.

A base or determinable fee was a fee determinable upon the happening of some event or contingency in the future.

Life Estates were the rights in the holder of possession to lands for his natural life or for the natural life of the person mentioned. Thus lands could be granted to "A" for his life or to "A" for the life of "B."

Estates for years was the right to possession of estate for the time limited. Lease-hold Estates created mere tenances, and Estates by Sufferance or Will, permitted the possessor to remain in possession during the sufferance or at the will of the owner of the superior right or title.

At Common Law, upon marriage the existence of the wife was merged into that of the husband and they were regarded as one. Out of the marriage relation at Common Law there arise what is known as the "dower right" and tenancy by courtesy dower was the interest to which the wife was entitled in the property acquired by the husband after marriage. Courtesy was the right in the husband to possess for his life all land of which the wife is siezed during coventure in fee simple or fee tail, provided there is issue of the marriage born alive capable of inheritance.

The right of one to make disposition of his estate upon death has been recognized by all nations and this gives rise to the laws surrounding Wills. Until recent years, in all Common Law jurisdiction, the power of the wife to contract or convey was not recognized, and it was necessary in order to dispose of her dower rights that she join in every conveyance with the husband. Dower attached by reason of the marriage to every piece of property acquired by the husband as courtesy attached in favor of the husband by reason of the marriage and birth of issue to the property acquired by the wife. In Texas, however, we have none of the Common Law tenures, except that of fee simple and estates and other terms which are analogous to the tenures of Common Law.

The Estates of Common Law resulting from marriage are unknown to the laws of Texas, the Republic having at an early date adopted from the laws of Spain what is generally termed "community" system. This recognizes

three estates,—the separate estate of the husband, which consists of all property brought into the marriage by him or that acquired after marriage by gift, devise or descent; the separate estate of the wife, which consists of all property brought by her into the marriage or that acquired afterwards by gift, devise or descent; and the community estate, which consists of all property earned by the efforts of labor of either the husband or wife or both after marriage.

There has been some change made by legislative enactments in the last few years as to the common or separate estate of the spouse, but the effect of that is immaterial here. Under the laws of Texas, the husband had the disposition and control of the community property and it is not necessary that the wife join in the mortgage or sale thereof except where the property is the homestead of the family and then she must join to pass her homestead right whether the property be community or her separate estate or the separate estate of the husband. The wife has no authority to dispose of her separate estate without the joinder of the husband.

Upon death without leaving a will, title to community property vests wholly in the surviving spouse, if there be no children or descendants of either whether of that particular or some other marriage. If there be children then the title of the deceased vests in his or her children and their descendants whether the children are children of that particular marriage or otherwise. The separate estate vests in the children of the deceased with a life estate in one-third of the real property in the surviving spouse.

If there be no children or descendants, then one-half passes to the wife and the other one-half to the collateral line of the deceased. If there be no heirs of the deceased then the entire estate to the surviving spouse.

Any one of sound mind and over the age of twenty-one years is competent to make a will and by an instrument of writing may designate how and to whom he desires his property to go in the event of his death. If the will be wholly in the handwriting of the maker, it need not be witnessed; if it be not wholly in the handwriting of the maker, then it must be signed in the presence of two witnesses, each of whom must be over the age of fourteen years. Any provision may be made with reference to the property unless it controvenes good morals or public policy. Perpetuities which means an attempt or desire to keep the property within a certain line of descent, or to direct its course of ownership forever of for a longer period than a life or lives in being and twenty-one years thereafter are void under the statutory provision. Children born after the making of the will are let into the estate as though no will had been made.

The ordinary forms of conveyances are,—the Deed, the Mortgage, and the Release. The form of Deed is prescribed by the Statute, but it is not essential that the statutory form be followed. Any instrument, which in effect conveys the property is sufficient and the statute provides that a fee simple shall be deemed to be conveyed unless a different estate is limited or created by the instrument.

The Mortgage or Deed of Trust is an instrument given to secure a debt, and for its validity must be founded upon a valid and subsisting debt.

In Texas any property may be mortgaged except homesteads, and the homestead can be mortgaged for its improvement or for the purpose of raising money with which to pay taxes due thereon or for the purchase money thereof. If it be mortgaged for improvement, it is necessary that the improvements first be contracted for by a contract of writing between the husband and wife on the one side and the one furnishing material or doing the improving on the other side, and that the contract be signed and acknowledged by both the husband and the wife in the manner required in the conveyance of the homestead.

A vendor's lien is the lien of the vendor or seller retained upon the thing sold to secure the payment of the purchase money agreed to be paid. As applied to real property, the lien is expressed or implied. An expressed lien is one that is expressly mentioned or provided for in either the Deed conveying the property or the notes evidencing the indebtedness. An implied lien is one that arises between the parties where the Deed recites an all-cash consideration, but where in fact the purchase money was not paid in full. As to the expressed lien, all purchasers under the vendees have notice by the recitals in the Deed; as to the implied lien, the purchasers can only be charged therewith provided they had actual notice.

Out of the Vendor's Lien, there has arisen in Texas

the doctrine of superior title, which, plainly stated, is that the title remains in the vendor until the purchase money be paid, and while the conveyance from the vendor to the vendee may be a written instrument in the form and having the force and effect of a Deed of Conveyance, yet it is but a contract to convey and upon default being made in the payment of the purchase money the vendor has the right to rescind the contract and by the superior title vested in him recover the property. Or he may convey to a third party and the title acquired by the third party would be a higher and superior title than that of the vendee who had defaulted in the payment of the purchase money. The vendor's lien and the superior title exist at the same time to secure the same debt, and yet are not the same thing. The lien is but the charge which the seller has upon the land to secure the indebtedness. While under the doctrine of the superior title, the title itself is recognized as being in the vendor until the purchase money be paid.

The Statutes in most States provide for the recording in some public office of the instruments affecting titles to land. This is done because it is necessary in some way to preserve evidence of the title to land, presumed to exist always.

The Statutes in Texas provide that before any instrument can be recorded it shall be acknowledged before certain officers. The effect of the acknowledgment is not to lend validity to the instrument, except in the case of a married woman, but to entitle it to record. In the case of a married woman the acknowledgment gives validity to the conveyance because a married woman conveys both by the instrument and by the separate examination before the Notary.

The effect of recording is not to give validity to the instrument, but is merely to charge subsequent purchasers of the same property from the same grantor with knowledge of the existence of the instrument. Possession has the same effect as the recording has. If the property be in the possession of the owner, it is not necessary that the instrument by which he holds the title be recorded, for his possession charges every one with notice of the title by which he holds.

CONVEYANCING

By W. W. Fisher.

In almost any business, art, or profession, there are certain fixed principles that govern certain phases of the work, while in other directions there is latitude or choice of action. In the medical profession, for instance, anatomy is a determinate matter, while diagnosis and method of treatment are matters in which the physician may exercise his judgment and skill. In the painter's art, perspective and the mixture of what are known as the primary colors to attain other colors, are not matters of choice, but of absolute rule; while the choosing of shades and tones and the skill and touch of the artist are the matters of personal differentiation which result in a greater or less degree of success and fame. For the banker, the discount rate and the interest table are the matters inflexible; while the moral hazard and the probability of each borrower's success are the phases of business upon which he exercises judgment and discretion. Similarly, in the academic world, what are known as "the exact sciences" are mathematics, physics, geometry, botany, etc., studies with rule and without latitude; while literature, philosophy, and history are inexact in their content and have no rule. In real estate, conveyancing is perhaps the only phase that is (or should be) exact, fixed, accurate. Such matters as appraisals, security of loans, management, advertising, systems, construction, salesmanship, and subdivisions are the elastic phases wherein judgment spells success, and the lack of it, failure.

Conveyancing, then, is the one fixed or determinate part of the business of real estate, and has to do with the actual preparation of papers transferring the title of property. There is no judgment involved, but only exact knowledge, and in this respect the subject is apt to prove less interesting than some others; matters of rote and formula are apt to be tiring. But a knowledge of conveyancing is essential and valuable to any one having to do with real estate, even though he may never be called upon to draw an instrument. In this paper we shall not endeavor to cover the history or law of real estate; but

these are so inseparable from conveyancing that inevitably we must refer to them.

Look for a moment at the history of conveyancing. In the days of feudalism, the lord installed his vassal, or tenant, upon the land and gave him, as an evidence of the right of tenure, not a deed or a lease, or any instrument of writing (for writing was in those days a rare art, practiced by a few savants only); but in the presence of witnesses the lord took a clod of dirt, or a piece of turf, a bough or a blossom, and gave it to his man in token that he, the lord of the manor, bestowed certain rights upon the tenant, while in return the lord received the vassal's oath of fealty and in some cases the promise of a portion of what the land should produce. Look also at the early examples of what we have come to call "extension agreement" or "renewal." The underling each year brought to his lord a gift in token of acknowledgment that he was the lord's faithful vassal and follower; and the suzerain, accepting the proffered gift, renewed or extended the agreement of lease or tenure.

As the holding of land by the vassal from his lord became the ordinary thing, there gradually came to be more and more an idea of permanency to the tenure, whereas it had originally been purely at the pleasure of the lord or suzerain. Later on, the holder, or vassal, came to expect to hold his land for life. Finally the custom evolved that the lord granted certain land unto a certain named vassal, "and unto his heirs." When the words "and unto his heirs" were added to the grant, the tenure of the vassal passed beyond the limit of his own years and the land descended unto the heirs of his body. This was the beginning of really permanent tenure by the "freeholders," as they were called, from the crown. The grant, however, might not be from the king to the actual occupant and user of the land direct; but in some cases the grant was from the king to a certain powerful duke, from the duke to a baron, from the baron to a knight, and from the knight to his vassals, the freeholders. In each state and degree of the tenure, the owner receiving the grant was vassal unto his higher lord from whom he held, and he was also suzerain to the inferior holder to whom he in turn granted the land. So we see that when the tenure by the vassal from the lord became permanent through the grant to him and to his heirs, and when this grant was given in writing, we had our first cases of title transfer, or "conveyancing," as we now know it.

A later development of transferring titles became effective when the system was adopted of filing instruments of transfers with an official appointed to have charge of same. This was done so that any landholder could go to such official to establish his claim before the world by filing the grant with such official, and also in order that all persons might know and have the means of knowing who was the owner or claimant of certain land. As a corollary and consequence of this custom of filing, there later developed what came to be known as the "doctrine of notice." This simply means that if a man receiving a valid grant of land files his grant with the proper officer, he shall thereafter be deemed and considered the real owner of such land; no other person can later file a conveyance of the same land in his own favor and legally lay claim to the land by virtue of said conveyance, for the reason that prior notice has been given him that the former owner of the land has already conveyed it to another. This doctrine of notice is one of the important foundation stones upon which is reared the whole structure of conveyancing.

Coming to more modern times, we have developed a system of filing with a certain county officer all papers, whether grants, leases, mortgages, or what not, which bear upon the title to land within that certain county. In the State of Texas, such instruments are filed with the County Clerk, who thereupon causes the instrument to be copied upon the indexed record books provided for that purpose. This serves all interested persons with notice of any and all transactions affecting that certain parcel of land named in that certain instrument. Hence it has come to be that the act which accomplishes the transfer of the title to a certain property is the act of filing for record the instrument of transfer with the County Clerk, or other officer appointed in other states to effect the recording of the transfer. If any instrument is not so filed and recorded, the public has no means of knowing the transaction and is not charged with such knowledge. Therefore, if the owner of a piece of land should grant the same unto a party and this party should not file his deed of record, and if subsequently the owner should fraudulently make another grant of the same property to a second grantee, who thereupon should promptly file such grant with the proper officer, the second party would be held an innocent purchaser and the rightful owner of the land, because the first grantee had not filed his deed

of record and thereby given notice that the original owner had parted with his title to the property.

Before we can proceed much further we must acquaint ourselves with some of the instruments used in conveyancing, and perhaps we can better understand them and can better connect their names with their uses if we trace the history of a piece of land through certain activities.

In the early days of the Republic of Texas, then, a certain immigrant from Tennessee made his way to the banks of the Trinity River, and having there "settled" upon a section of land as allowed or required by law, or having given the sum required by the State for the land, he obtained a government grant of such land, or "patent," as it was called, executed by the President of the Republic of Texas and properly sealed and attested. By filing this patent of record with the proper officer at that time appointed to receive it, the immigrant became the titular, or record, owner of this land. His patent contained a description of the land, made out perhaps crudely and inaccurately, because necessarily it was difficult to get measurements, distances, directions, and markers exactly correct in a new country where little surveying had been done, where a good civil engineer was a very rare person, and where surveys made by one man overlapped or failed to meet those made by another. Because of such inaccuracies in early grants, titles in many locations have subsequently been made matters of doubt and questioning; but this was and is inevitable in any new country, and all parts of all countries are new in the beginning.

The old Tennesseean held his grant for some years and then he sold 320 acres of it to another man, and this man sold to another, and so on, during the interval of years in which Texas became one of the states of the United States, with a Governor to grant patents instead of a President, and in which cities sprung up and grew, among them the City of Dallas. A half dozen, a dozen, or a score of transfers on our piece of property may have been made in the interval, but we need not trace each of these separately. Each owner passed title in reasonably good fashion to his successor throughout the years; and in the year 1910, we find that the title of 160 acres of the original grant, or patented land, rests in John Doe, and the city limits have been extended to include this property. At this point Richard Roe purchases 80 acres from John Doe for the purpose of opening an addition, or group

of building sites. He takes from John Doe a General Warranty Deed to the property, as all his predecessors in title have in turn taken. A deed in real estate is a grant of a title; a General Warranty Deed is a grant of the title with a warranty by the grantor to defend the title against adverse claims. Richard Roe having received John Doe's General Warranty Deed, files it of record and becomes the title owner of the 160 acres. He may run sewerage, water, and gas into the property and he may improve his proposed streets, and lay cement walks, etc., depending upon the character of his proposed addition. He is now ready to sell off his sites, or lots, and accordingly he files a dedicatory plat of the addition with the County Clerk, dedicating streets and alleys, and possibly parks or plazas, for the perpetual use of the public. If inside the city limits, as in our case, the dedication of such streets, alleys, and parks must be accepted by the municipality before these can properly be called public ways.

Charles Brown, a single man, now buys Lot No. 7 of Block G, of Richard Roe's Eastland Addition, taking a Warranty Deed from Mr. Roe, the title holder, and filing it for record to show himself the owner. But not having at hand the entire $1500.00 purchase price of the lot, he pays $1000.00 cash and gives what in other states would be called a mortgage note, but what in Texas is called a Vendor's Lien note, or a note secured by Vendor's Lien, for the remaining $500.00. This note remains as a lien, or claim, against this lot until the $500.00 is paid. Upon payment of the note to Richard Roe, or to whoever he may have sold and assigned it, Charles Brown receives a release of Vendor's Lien, the filing of which instrument releases the claim against the lot and gives him a clear fee simple title. After a lapse of a few months Charles Brown decides to erect a small cottage on his lot, and he decides to borrow money necessary for the improvement. He arranges with the Provident Loan Company to borrow $1250.00. He executes a Deed of Trust and a Deed of Trust note against the property. These are the Texas equivalents for the Mortgage and Mortgage Notes commonly used in the older states. The effect of the Deed of Trust is to declare that, if Charles Brown shall fail to pay off and discharge, at the maturity date, a certain note for $1250.00, executed to the order of the Provident Loan Co., the Trustee named in the instrument, to whom the title is conveyed for this trust purpose, shall sell the

property at public sale on the first Tuesday of the month following default of payment to the highest bidder for cash, this cash to be used to pay the Provident Loan Company its full claim, plus interest, penalty, Trustee's fees, etc. A Deed of Trust differs from the mortgage form in that the third person, the Trustee, acts as the foreclosing agent for the holder of the note; whereas under the terms of a mortgage, the real estate involved becomes the property of the mortgage holder, or mortgagee, upon his foreclosing his own lien, or claim.

After living for a time in his small house, Charles Brown is married and decides to enlarge and improve his house. He applies to the Provident Loan Co. to lend him additional money, but he is advised that, though they are quite willing to advance him additional money to improve, they cannot now make him a further "direct loan," (i. e., by Deed of Trust). Charles Brown, seeking an explanation, is advised that when he married and became the head of a family, he gained the privilege of all married people, in the State of Texas, of claiming a homestead; and this property being actually occupied by him and his wife for a residence is therefore their homestead. The laws of the State of Texas and some other states provide that the holder of a debt cannot seize the property designated as the debtor's homestead to satisfy a debt. The homestead law of Texas, (made years ago in the interest of the rapid colonization of the State), immunized from foreclosure, or execution, 200 acres of land and improvements thereon in the country, or, in a village or city, a lot or lots, not necessarily adjoining, used for home purposes, having a value not to exceed $5000.00 at the time said lot or lots become impressed with the character of a homestead.

Mr. Brown is advised, however, by the Provident Loan Co. that he can engage a contractor to make the desired improvements on his homestead, and that he and his wife can give such builder a Mechanic's Lien Contract and Mechanic's Lien short time note for the full amount of the improvements, (say $1000.00), or for any portion thereof, as agreed with said builder; and that the mechanic may then sell the note to an investor in interest-bearing paper. This is accordingly done by Charles Brown, and he and his wife deliver their Mechanic's Lien Contract and Note to John Jackson, contractor, in the sum of $500.00 payable in thirty days, and they agree to pay in cash the remaining $500.00 of the $1000.00 improvement. The Provident Loan Co. now buys the $500.00 note, due in 30 days, from John Jackson, contractor, who conveys it by a Transfer of Lien; and Charles Brown and wife now execute a Deed of Trust and Deed of Trust note, payable on the date recited in the note, perhaps the same maturity date as that of the original loan of $1250.00 on the original small cottage. In this Deed of Trust, there is a stipulation that the Deed of Trust Note and the instrument securing it subrogate to the rights of, and depend for their power of execution existing by virtue of, the Mechanic's Lien Contract. This is the only possible way to borrow money on a homestead in Texas,—by a Mechanic's Lien, or Materialman's Lien, for labor or material or both, used in improving the homestead.

Some time later Charles Brown sells the house to William Johnson for $5000.00, with $2000.00 cash. We have seen that the Provident Loan Co. holds the original first lien of $1250.00 and also the $500.00 second lien against the property, and these amounts, totaling $1750.00, William Johnson assumes and agrees to pay as per the terms of the notes. The payment of $2000.00 cash and the assumption of $1750.00 in outstanding notes leaves $1250.00 of the $5000.00 purchase price still to be arranged; and the buyer, or vendee, gives the seller, or vendor, a note for this $1250.00 due and payable one year after its date, and bearing interest at the current rate. This is a Vendor's Lien, but it must be remembered that it is not the First Lien (or Mortgage), as the direct loan of $1250.00 and the Mechanic's Lien of $500.00 given against the property by Charles Brown are liens superior in rank to this Vendor's Lien for $1250.00. This $1250.00 note, therefore, is said to be a junior lien, inferior to those already existing on the property. If, however, these latter mature and are paid off and released, before the $1250.00 note matures, the latter becomes the only (and therefore the first) lien or mortgage against the property.

Thus, following the history of a piece of property, we get light on the meaning and effect of the more common instruments of conveyance, which with certain less common instruments, of which we have not observed the working effect, we may now briefly define and distinguish as follows:

(1) A Patent is a federal or a state grant of land.

(2) A General Warranty Deed is an instrument in

which the seller conveys title to certain land to a buyer, and guarantees the title so conveyed without condition or limit.

(3) A Special Warranty Deed is a grant of title by a seller, who guarantees the validity of the title in his own tenure thereof.

(4) A Deed without Warranty conveys title but does not warrant.

(5) A Deed of Dedication is one in which the grantor gives and dedicates certain land to a certain party, usually the general public, for certain uses, such as streets, alleys, parks, etc.

(6) A Quit Claim Deed is given to release a "color of title," or supposed claim of title, which the grantor does not care to warrant. It is usually given to clear a title to which a person has no claim in equity and, therefore, it usually recites no (or a nominal) consideration.

(7) A Lien is a claim. A Vendor's Lien, or seller's Lien, then, is a claim in favor of the seller of a property, existing because the purchase price has not been paid in full. A Mechanic's Lien is a claim against property existing because of work or material, or both, furnished for the improvement of property, and, to the extent of the lien, not paid for.

(8) A Deed of Trust, or Trust Deed, is an instrument conveying property title to a Trustee, who is charged with seeing that certain conditions named in the instrument are fulfilled, or if not, that the land is sold to satisfy the agreement given against it. In case of such a sale of the property, the deed made by the Trustee is styled a Trustee's Deed.

(9) A Mortgage is an instrument creating a lien upon property as security for the payment of money.

(10) A Transfer (conveyance, or assignment) of Lien conveys a claim against property from one holder thereof to another.

(11) A Release of Lien is executed by the holder thereof when the lien has been satisfied.

(12) A Sheriff's Deed is one executed by that officer in favor of a person to whom a court has awarded its decree or judgment covering the property.

(13) A Tax Deed is given by the County Officer who, acting under state authority, has sold certain land for taxes past due thereon.

No paper on conveyancing, however brief, would be complete without some reference to abstracting of titles. Let us, therefore, summarize the meaning and purpose of abstracting.

An abstract of title is an authentic, epitomized history of the property it is designed to cover. Its purpose is to show the story of the title to any person interested in inquiring into it for any purpose, whether as a prospective purchaser, a lender of money, an attorney for a claimant, or the like. Abstracts of title on properties are prepared by men or companies engaged in that special business; in some cases and localities these men or companies are bonded, that is, they are responsible for the correctness of the advice they furnish. Abstractors or title men have in their offices copies of all transfers recorded with the County Clerk, or Registrar of Deeds, and from these copies they can make up in book form the history of any title in their county. If, therefore, you are the owner of Lot No. 3, Block K, Washington Heights Addition, with an eight-room house situated thereon, and you should desire to borrow $3000.00 on the property, your procedure would take a channel something like this: You apply to the Phoenix Loan Co. for the loan, and probably sign an application form, giving full data on the security offered. The company sends an inspector to appraise the security, as the first step; and if that phase of your application is passed satisfactorily, you are asked to present your abstract of title to prove that you own the property free of incumbrance or adverse claim. A complete abstract of title is then presented to the Loan Company and is turned over to its lawyer, or legal department, for examination. Then follows an exhaustive search for possible defects in the title; and as there probably never was a land title, of any appreciable age, free of defects, claims, or inaccuracies, the attorney's satisfaction with the title is nearly in all cases a matter of degree. But we will assume that the lawyer is satisfied that your abstract shows that you have at least a good, if not a perfect, record title, and that he so reports to his company. Then the record title matter being disposed of, the attorney may want to know that no other person is in possession of your property, or any part of it, and claiming it. If such were the case, even though the claim were false and without basis, the loan to you would not be forthcoming. The examining attorney may also require a showing as to any one of many other things,—your marital status at the time you re-

ceived the title and at the present time; information regarding improvements made recently enough to admit a mechanic's claim; whether you have ever occupied, or are intending to occupy, the property as a residence or business homestead; whether the full area of the lot as platted is actually under fence and in possession; whether there are any liens for street improvements, sewers, ad valorem taxes, or other public charge or assessment, etc. These matters being all answered satisfactorily, perhaps by written affidavit (or sworn statement) delivered to the Loan Company to be filed of record at the discretion of its attorney, you are then required to execute your note for the $3000.00 you desire to borrow, and the Mortgage, or Deed of Trust, securing same. While these final steps are being taken, either the abstractor or a clerk of the company may be finally checking the county records as to your property and yourself, to ascertain that you have not fraudulently mortgaged or sold the security to another party since the abstract was made, nor that any judgment has been given against you in the interim. This final check having failed to show anything unfavorable, you receive the money from the loan company and deliver to them your note and execute the Mortgage, which latter they immediately file for record with the proper officer, thereby establishing their claim against your property.

Of comparative youth, we may say, at least in some parts of the country, is the alternative practice of title insurance, which takes the place of abstracts of title. Certain firms, companies, or corporations, instead of making up from the records an abstract, or book, showing the history of a title, upon which an attorney or title man may then give his opinion, simply examine the records themselves; and provided they find the title reasonably good, as shown by the records, they issue a certificate of title, or in the case of some of these companies, a policy of title insurance. Some of these companies operate under charters granted by the state and are under state supervision and are required to deposit securities as reserves for the protection of policy holders; while others of them operate as private companies without state supervision.

In some other countries and in some states of our own country, title matters are handled under the Torrens System of land titles. This system is an acknowledgment and acceptance by the state of the correctness and validity of land titles. This is accomplished in the case of

each separate title by the bringing of suit in the state courts to try the title; and the officers appointed by the state to examine into the matter and conduct the trial of the title, either accept the title or reject it. In case of rejection, steps may be taken to perfect the title, or to render it satisfactory to the authorities. When a title has been once accepted by the Torrens system officers, and has been registered in the state indexes as a good title, there is no further conveyancing trouble thereafter on this title. Examination is unnecessary as the state simply certifies to the buyer or mortgagor of the property that the title is good. This system, however, cannot be said to have attained to common usage in states where it has been introduced. In Illinois, for instance, statistics show that in Cook County, during the first eight months of the year 1913, 20,000 properties were transferred under the method of abstracts, approximately the same number by title insurance, and only 600 transfers were made under the Torrens system, as used in Illinois.

We are probably justified in this brief paper in explaining the principal parts of the most important of all conveyancing instruments, the Deed, or Warranty Deed, as we in Texas usually call it. It is the most important of all instruments, as it is by the Deed that the title actually passes. For this reason conveyancers should be especially exact and accurate in drawing Deeds. A Deed may contain ten principal parts, although some of these are obsolete in certain localities; and an ordinary deed contains only five or six of these principal parts:

(1) The premises of the deed include the names of the parties, the consideration, a recital of the facts, and a description of the property.

(2) The habendum is that part which states what estate is given the grantee in the property granted, whether a life interest, fee simple title, or what not; if other than fee simple, it is also stated in the habendum for what term this estate shall endure and to what use the property shall be put (if the use be limited).

(3) The tenendum was formerly used to express the tenure by which the estate granted was held; but this is not common in deeds now.

(4) In the part called the reddendum, the grantor reserves unto himself some right or privilege in the land conveyed, such as a mineral, oil, or water right.

(5) Next, any special conditions imposed in the transfer are recited, as the payment of notes, or the like.

(6) The warranty of the granting parties follows next, in which the grantors and their heirs are held bound to warrant the title.

(7) The clause on covenants affords opportunity for the expression of one party to do something that will be beneficial to the other party (such as the grantee agreeing to build a desirable improvement which will benefit the grantor's remaining land adjoining), or not to do something which might injure the other party (such as the grantor agreeing that he will not use his remaining adjoining property for a boiler foundry, or soap factory, to the damage of the grantee).

(8) The conclusion, or testimonium clause, is that which recites the witnessing of the signatures, etc.

(9) Following this comes one of the most important, and one of the most commonly neglected, parts of the entire deed,—the acknowledgment, or proof of the deed. This is the certificate of a notary public, or other eligible officer designated by the law of the state in which it is made, to the effect that the grantors have aknowledged to him that they executed the instrument in the form required by the state law. This must be done in the form as required by the statute of the state in which the land conveyed is situated. But by omission of some vital part of the form, the failure to insert the necessary words, or to include the acknowledgment of the grantor's wife, when necessary, the omission of the notary's signature, seal, or title, acknowledgments are frequently made so insufficient as to open the way for future criticism of the title.

(10) The certificate is the last portion on a deed; this is a certification required in some states to be made by a certain state officer to the effect that the officer taking the acknowledgment is properly qualified to take such acknowledgment. In some cases the officer must identify the signature of the acknowledging officer.

The most necessary advice and caution to a man who is to have conveyancing as his work is, be careful and accurate. You are doing work the correctness of which will be examined and checked over in future years by many persons, and some of these will be harsh critics. Knowing this, frame your work to meet such criticism. Remember also that you are acting in the capacity of a trustee; you are entrusted with the property of other persons, who take it for granted that you are able and accurate in the performance of your work. Therefore, do not fail, but prove yourself a dependable trustee.

MORTGAGE LOANS

By E. E. Shelton

The investment of funds by the American public has become a science, and as a result of the most careful investigation that has ever been given this branch of American industry, more individuals, banks, trust companies and life insurance companies are investing in first mortgages, both in the aggregate and in comparison with all other securities, than ever before.

In the investment of funds in first mortgages, both by individuals and by corporations, the basic thought is safety. Safety and assured income are the factors which distinguish an investment from a speculation and where these co-exist in perfect proportion they establish first mortgages as a standard security.

Farm Mortgages.

One form of mortgage which has long been recognized as a standard investment is the American farm mortgage. The farm mortgage differs from any other safe type of investment. The foundation upon which it rests is the inherent productiveness of the soil. The farm mortgage carefully made and properly executed represents one of the highest types of investment security.

Neither wars, manipulations, or changing local conditions or any other hurtful agency can take away the value of the security behind a farm mortgage—the land. The farm has always given the world its food, and the supply must always come from the farm. Hence, farm lands possess a basic worth equal to, if not greater than, all other kinds of securities.

The safety of the farm mortgage is due to and directly derived from the fundamental law of life—we must eat to live. In addition to the attractiveness of farm mortgages to the investor, the usefulness of funds so invested is reflected in the utilization and development of our National wealth.

City Mortgages.

Mortgages on improved real estate in large cities are becoming more and more a favorite form of investment,

due to the rapid growth of metropolitan land values, as well as the high yield of property. Heretofore the lack of adequate funds for the development of our towns and cities has resulted as a rule in a higher yield from this form of security than from other property possessing like safety. Among other factors which have contributed to the substantial return from this form of security is this, that new commercial and industrial centers have been rapidly developing in the United States during the last few years, and little available capital exists in new localities for investment purposes, as practically all surplus funds are invested in personal enterprises.

Conservative investors in the Eastern States who were receiving large returns in railroad securities, with few exceptions, were unwilling to risk their money in unknown and untried localities. As a result, when funds were needed for investments in mortgages it was necessary to obtain them from the immediate locality where knowledge of the securities was easily obtained. The difficulty of securing the exact sum needed, the hesitancy to make long time inconvertible loans and the difficulty experienced by the borrowers in securing new loans with which to repay their obligations resulted in a high rate of interest, and in many instances, large commissions.

Origin of Mortgages.

Mortgages owe their origin more to the necessities of men in civilized life than to the creative genius of any particular individual, age or nation. They were in no sense a subject of invention but followed as a necessity in the wake of civilization. The necessity of credit, and the consequent sudden demand for money in a moment of business or commercial embarrassment suggested as a natural recourse the idea of the mortgage as the quickest method of obtaining the necessary funds. It also afforded to the lender a perfect security, easy of transfer, which within itself renders to the lender the same service that it did to the original mortgagor.

Mortgages Defined.

"A mortgage is the conveyance of an estate by way of pledge for the security of a debt and to become void on payment of it."

No particular form is necessary to constitute a mortgage. It must, however, be in writing and must clearly indicate the creation of a lien, and must specify the debt

to secure which, it is given, and the property upon which it is to take effect.

The term mortgage has a technical signification at law, and is descriptive of an instrument having all the requisites necessary to establish it in a court of law.

Trust Deed.

A deed of trust to secure a debt is in legal effect a mortgage. It is a conveyance made to a person other than the creditor, conditioned to be void if the debt be paid at a certain time, but if not paid then, the grantee may sell the land and apply the proceeds to the extinguishment of the debt, paying over the surplus to the grantor. It is in legal effect a mortgage with a power of sale.

The most important difference between a mortgage and a deed of trust is that in the case of the mortgage the conveyance is made directly to the creditor, while in the deed of trust it is to a third person for the mortgagee's benefit. Another particular difference is that a deed of trust with power of sale may be foreclosed according to its terms by the trustee without authority of court, whereas a simple mortgage can be foreclosed only under decree of court. It is generally provided by the terms of the mortgage that the mortgagee shall have the right to sell when the owner defaults in the payment of principal or interest, or in the payment of taxes assessed on the premises.

Mortgages Stable In Character.

A mortgage is not affected by state legislation, or public service commissions, or by anything except general conditions that exist. It is in the opinion of many financiers the very best security for the investment of money, if it is made by men who know the business.

Fundamental Requirements.

Money is a commodity which seeks the highest return consistent with safety. One of the first requirements in mortgage loaning is freedom from burdensome taxation, the assurance of a satisfactory return on capital invested, and a strong probability of being able to collect the principal of the loan when necessary, without legal technicalities or serious delays.

In most states there is a statutory provision fixing

the largest legal rate of interest obtainable, but also providing that a higher rate may be secured by means of a written agreement.

In many states burdensome foreclosure requirements, stringent homestead and exemption laws, and long redemption periods, make it difficult for borrowers to secure funds necessary for the erection of homes, or for other building purposes.

Homestead Exemption.

Property to varying extents is exempt from levy or attachment up to certain amounts. In all states, with the exception of Texas, the homestead exemption can be waived by both the husband and wife joining in the note. In Texas, however, there are provisions in the law whereby loans may be safey made on homesteads for the purpose of purchase or improvement, and with careful legal advice this situation affords no undue risk. For example, the homestead exemptions range as follows: in Alabama $2,000, Georgia $1,600, New York $1,000, Tennessee $1,000, Texas 200 acres of land in the country with improvements thereon, and in the City a lot or lots of value up to $5,000, besides improvements thereon.

Redemption Period.

By redemption is meant the length of time given to the mortgagor for redeeming a homestead after foreclosure has been made. For instance, in Alabama the redemption period is two years, in Arkansas one year, in New York none, Ohio thirty days, Texas none.

Requirements for Safety.

Large mortgage concerns loaning money throughout the various states consider geographical localities and natural resources as a prime requisite in making loans.

The history of the past indicates that the cities which have developed as the result of natural advantages, and which are not dependent upon some particular industry for their growth, are considered far more stable during periods of depression than cities of artificial creation or those dependent upon a single industry.

Cities are judged in a measure also by their growth. A moderate rate of growth over a period of years is very much more desirable for mortgage loans than cities

which have had an extremely rapid or far below normal growth.

For the foregoing reasons the large mortgage companies do not look with favor upon a city as an investment field until it has reached a normal population of at least 30,000, by which time a reasonably accurate forecast of stability and future growth may be determined.

Another extremely important factor to observe is, that the sections of a city which are retrograding in value, or owing to topographical defects are undesirable, should be avoided. The causes bringing about the decay of certain parts of a city are so complex as to make it difficult to gauge the rate of recession in value.

Vacant lots and property devoted to special uses are undesirable because, in the event of acquisition under foreclosure, unimproved land is simply a source of expense with no market in dull times; and in case of property devoted to special uses, there is an uncertain income, a limited market and a consequent probability for considerable sacrifice in price if it becomes necessary to dispose of same.

Loans therefore, with few exceptions, should be confined in cities of moderate size to those classes of property in most general demand, such as retail business property, office buildings, residence property in improving localities which are well defined and free from objections. A careful analysis of the constant shifting taking place in all growing cities is imperative for safety; and this information can be more accurately obtained by a systematic recording of real estate and mortgage transactions, including leases, sales, and building permits.

Appraisement.

In the analysis of real estate an attempt to lay down rules for the appraising of real estate values is probably the most difficult of the whole analysis of real estate mortgages. The frequency with which variations from the general rule occur because of local conditions, is so puzzling that hardly any fixed rule exists.

There are some exceptions to the rule, but in most all cities there is usually a general income basis upon which all improved property, aside from high priced residences, is sold.

For example, in cities of moderate size improved office

buildings and retail store property is expected to net from five to six per cent on the investment, and second class business and rental residence property a somewhat higher rate. With the income basis in mind the value ascribed to property under reasonably good conditions should not exceed that sum upon which the net rental has paid a reasonable return for a period of years. The mistake should not be made of assuming that because a certain piece of property has changed hands for a certain sum that the value is equal to that sum, or that the property having been at one time worth a certain amount is worth that sum at a given time.

For instance, a piece of property of any character, especially residence property must reasonably approximate the character and value of its surroundings. For loaning purposes an expensive residence in a neighborhood of cottages is of but slightly more value than the smaller houses, and a retail store on a quiet residence street may be almost valueless.

The price paid for property by a person who is not compelled to buy to a person who is not compelled to sell has been said to be a fair definition of the value.

Amount of Loan.

The large mortgage companies with many years of practical experience have established the fact that as a rule it is not safe to loan in excess of fifty per cent of a conservative valuation. The reason for this is that in case of foreclosure the principal of the debt will be increased by unpaid interest, taxes, insurance premiums, attorney's fees, court costs; and it is further reasonable to suppose that before the end of the foreclosure and redemption period, the property will have depreciated in value by lack of care, and too, property sold under pressure does not as a rule bring its real value.

Amortization.

Because of the shifting conditions and possible reductions in values many of the mortgage companies today are making loans on the installment principle, whereby a loan is reduced annually or oftener by the payment of a stipulated amount. This is considered a most valuable feature, because, incidentally, the borrower is trained in habits of saving and thrift, and not infrequently such payments made during a period of prosperity have been sufficient to bring the loan well within the margin of

safety at a time when the borrower would have been unable to liquidate a large amount.

The attitude of investors in mortgages in the past has prevented the more rapid introduction of this single feature, but investors are coming to realize that the difficulty of reinvesting these payments is not to be compared with the advantage derived through the constant reduction of the loan.

Moral Hazard.

While real estate security is supposed to protect the lender fully, it is most essential that borrowers must be thrifty individuals whose past records are favorable and whose future prospects are reasonably good.

A bank in constant touch with its customers can afford to make loans in many instances purely on general reputation and business ability. But investors in long time mortgage securities must have the protection both of the moral risk and the real estate collateral to be safe.

Judging by the past, there is every reason to believe that the recurring periods of expansion and depression in real estate will continue. It is, however, equally apparent that land will always remain a human necessity. While men inhabit the earth, homes will be required for shelter and business buildings for the exchange of commodities. Therefore, funds loaned on this class of security, when confined to a conservative percentage of the value, are serving a worthy purpose, and are secured by a form of collateral, the value of which is reasonably sure to remain stable.

Real Estate Mortgage Bonds.

In the past real estate mortgages have had a more or less disorganized market, largely owing to the difficulty of issuing securities of standard denominations, such as are possible to railroad corporation bonds. Mortgages as a class lack the convertibility possessed by bonds, therefore, there are some features which the ordinary first mortgage does not supply, due to certain inherent limitations. The development of the present real estate mortgage bond to fill these needs has resulted.

First, there are limitations as to minimum amounts. The man with one hundred or two hundred or five hundred dollars to invest is not likely to obtain a satisfactory mortgage investment of the usual kind. This means that the great aggregate of small investors who have

from one hundred to one thousand dollars to invest are out of the field of investment in the usual type of mortgage.

Second, there are limitations as to maximum amounts. In loans of large amounts the number of investors decrease at an increasingly rapid ratio because of the lack of funds, and because investors of large amounts are mindful of the necessity of the distribution of risks.

These limitations have brought about the development of the mortgage bond, not to supplant the usual type of mortgage investment, but to supplement it. The existence of the mortgage bond is justified in the service it performs to the man of small amounts to invest and the borrower. Mortgage bonds can be made upon hundreds of thousands of dollars or upon millions of dollars of property, and are divided into a number of small bonds, according to the particular requirements of the case. This means that they can be sold not only in one locality but throughout the country.

In addition, it means that the investor who is not experienced in investment matters will have a safe investment, because mortgage bonds are secured by first mortgage security, and as a rule are handled by large concerns experienced in such transactions who render a complete service throughout the history of the loan until it is paid off and discharged in full.

Building and Loan Association.

About the year 1795 there was begun in the United Kingdom the organization of financial institutions known as Building Societies.

These were organized and operated for the purpose of raising, by subscription of its members, a stock or fund for making advances to members upon leasehold estate by way of mortgages.

They were known as terminating societies, which means that the members paid in a certain period of time until they received their loans, which terminated their connection, and when the original members joining the society had accomplished their object the society terminated.

In 1846 important modifications were effected, and there was established what was known as the permanent plan, which meant that the society could continue indefinitely.

These institutions had their inception in the United States in 1831, and became known as Building and Loan Associations. The first one of which we have any record was established at Frankford a suburb of Philadelphia. Their permanent inception took place between 1840 and 1850, and they have grown in number until today there are between 8,000 and 9,000 building and loan associations in the United States, with a total membership approximating 5,000,000, with assets totaling in excess of two and one-half billion dollars.

These institutions generally are corporations organized for the purpose of aiding their members in the purchase, improving or building of homes; and of encouraging habits of thrift through the accumulation of savings.

They are operating today in general on the permanent plan. They issue to the members certificates representing shares of stock in the association in the par value of $50.00, $100.00 or $200.00, as the case may be. Subscribers for these shares pay in the regular monthly amount per share as required by the association. Shares are considered matured when the amount paid in, plus the accumulated profits, equals the face value of the shares. The subscriber then surrenders his certificate and receives in cash the face value of the shares.

Members who borrow money from the association for the purpose of buying or building homes are required to be shareholders in the association. Such borrowing members discharge their obligations to the association by constantly paying in the monthly dues on their shares until the amount paid, plus accumulated profits, equals the face value of the loan, at which time the certificate is surrendered and the debt is cancelled.

The housing shortage in the United States today is considered one of the most serious perils confronting the nation. The housing shortage today approximates one and one-half million homes. The building and loan associations are rendering perhaps the greatest service toward alleviating this condition, as they are, as an institution, loaning practically all of their funds on first mortgages on homes.

Encourages Thrift.

The building and loan associations are rendering a service of inestimable value to the communities in which they operate by encouraging habits of thrift. They of-

fer to the small investor the opportunity of investing small amounts in first mortgage loans upon a safe basis. Their plan of operation provides that investors of small monthly amounts can begin immediately to derive a substantial return from their savings, because their collections in large numbers of small amounts can readily be loaned.

They offer to the investor a most attractive margin of safety because loans are made in such amounts as have proven by experience to be reasonably safe. In most states the law requires that building and loan associations shall be supervised by the Banking Department whose duty it is to audit their books at regular intervals for the protection of the shareholders.

The well established building and loan association has, as a rule, a highly perfected loan organization with officers in charge who are thoroughly qualified to handle the funds because of their familiarity with real estate values and their knowledge of making loans.

The investors in building and loan associations receive a most substantial return upon their investments. This is due to the fact that most associations are operated upon a minimum of expense, making it possible for the members to realize practically the entire earnings from their investments, and by the re-investment of interest as it is accumulated make it possible for a substantial fortune to be accumulated by the investment of comparatively small monthly sums.

All Building and Loan Associations operate on the Amortization plan, which offers distinct advantages to both investing and borrowing members.

First, by the collection of monthly amounts from the borrowing members, the outstanding liability of the Association is reduced from month to month, thereby increasing the margin of safety for the individual investors.

In addition it makes it possible to offer to the shareholders the privilege of immediate liquidation of their investments upon reasonable notice, if necessity demands.

To the borrowing member it offers an easy plan of repaying the loan and avoiding the necessity of meeting a large obligation at any time. The payments are not in excess of the amount paid in rents for a home of equal value. They make it possible for a man of average means to own his own home and become his own landlord.

DEVELOPMENT OF SUBURBAN PROPERTY

By Hugh E. Prather

The subject assigned me, Development of Suburban Real Estate, covers so wide a range that were one to attempt to go fully into the whole subject much more time would be consumed than would be profitable and I, therefore, shall try to cover only such matters as pertain to the development of the Highest Type of Suburban Residence Properties, where the owner undertakes the complete development, from the primitive or farming state into the finished residence city. This is as I see it—Suburban Development in the highest sense and should challenge the best efforts of the one who essays such a task.

I feel, too, that the student who wishes to learn something of the methods and plans necessary in work of this character, would wish discussed only the better developments in suburban property.

If I can at once be acquitted of seeming to appear personal, or to inject myself into this discussion, I shall feel much more comfortable, but from time to time it may be necessary for me to refer to my own experience and property. This will be solely because of my desire to make clear certain things and to also prove certain assertions as practical that otherwise might be construed as purely theoretical. It is only through experience that we truly learn, and all that I shall say is the result of fourteen years of experience, sometimes rather costly, but for the most part an experience that I would not wish to forget and on which I look back with the greatest pleasure and satisfaction.

Developer.

First—I shall say a word about the Developer,—and please keep in mind that we are discussing the development of a real high-class, modern, residence city—and not the mere sub-dividing into lots of any property that chances to lie adjacent to a city. In that case the party doing the sub-dividing merely installs the improvements, sells the property, and immediately turns his attention to other matters.

There is no such rosy path for the developer of the

residence city. He is usually a person who is not altogether influenced by the amount of money that he may hope to make, but to a great extent must he be influenced by the desire to create something that is worth while, something that will not only be a help to his city, but a credit to his vision, his faith and his work. For the man who would undertake a great venture of this kind must have vision to plan, faith to sustain him during the many trying times through which he must pass, and courage to finally accomplish his task in a creditable manner.

There will be times when he will almost despair of going on to a successful conclusion, when everyone almost will criticise him; when his own associates will question his policies and probably criticize him for being too liberal minded about most things pertaining to the property, but I must say this,—and here I change the subject,—if the man who heads up a development of this kind is not broad minded enough to be liberal; to be tolerant; to be willing to forget the immediate profit for the sake of the greater one later on—whether it be all cash or some cash and some satisfaction—if he be not a man of this type, he had best not attempt this work.

Having then determined to develop a property one of the first questions is how large should it be? The combined experience of a number of men engaged in work of this kind is that nothing less than 300 acres will answer all requirements for an ideal residence development project where all things that pertain to such a community can be consummated and established.

Roland Park in Baltimore, a pioneer development, contains more than 500 acres, even larger acreage is desirable where a Country Club Section can be an adjunct.

In Kansas City, the Country Club Section contains 2,000 acres. There was originally one Golf Club in the property, in fact the development came as a result of the establishing of the Golf Club, but on account of the large amount of desirable acreage surrounding the Club the greatest residential development has resulted so that now about 1,200 acres have been fully developed and four Golf Clubs have been established within the 2,000 acres.

In a property of less than 300 acres one can hardly afford to attempt a community development and expect to make it a success financially. Don't misunderstand me—I do not mean to say it cannot be successfully subdivided and sold out. But I am adhering to my subject—the ideal residence city development.

Selection of a Site.

In selecting the property one should be influenced by a number of considerations, most of these are of equal importance.

1. Nearness to the City.
2. Direction from the City.
3. Price of property per acre.
4. Topography of property.
5. Desirable Physical Features.
6. Thoroughfares leading to property.
7. Character of property along routes.
8. Transportation.

1. The nearness to the city is a most important point in the selection. The size of the city will have some bearing on this. It is well to be within a convenient distance by automobile and street car. For cities of moderate size, the requirement is that the distance be not too great, for transportation is not so highly developed as in larger cities, consequently two to four miles is most desirable.

2. The direction from the city has more influence on the selection than one would first imagine. Most cities grow east or south—Highland Park is well situated because of the high altitude as compared with Dallas. Munger Place has the same advantages. Oak Cliff is also admirably situated; indeed Dallas is a reversal of most well accepted rules, and the growth of this city is one of the reversals. But it is not so in most cities. They grow largely in one or two directions; therefore, in your selection, if your site is attractive, it will be a further advantage if it is the path of normal growth of the city.

3. The price per acre one can afford to pay is a matter that can be determined only after one has satisfied himself about two important matters. We shall designate them as A. and B.

A. First a complete analysis must be made of costs. Under this head comes original cost of land; cost of all development work; cost of carriage, which includes interest on all moneys invested, taxes of every nature and cost of maintenance, pending sales; selling costs, which

includes commissions and advertising, office expenses, such as bookkeeping and conveyancing; overhead expenses, which must be apportioned between development costs and selling costs, if one is to keep accurate data on which to base decisions for the future.

B. Second a fairly accurate estimate of the price at which the lots can be sold—Not the price you wish to place on them, but the price at which they will be quickly absorbed.

After these two matters have been thoroughly considered, and the amount of time determined in which all sales can be made, if there is still a margin of profit quite large, one is then in a position to accurately figure how much money per acre he can pay. Do you really suppose that many have ever accurately gone into the development of a large sub-division as carefully as is indicated in the above analysis? I would like to say before leaving this subject that we have always used the above method before actually beginning any particular development. Our Engineer has not only always computed accurate costs, but have in many instances allowed 20 per cent additional for things that we could not see at the time. In most instances 20 per cent has been a safe margin, but in many other instances a great part of it has been finally absorbed.

4. Topography is a most important consideration. The land should be fairly level, but should have enough roll to it to keep it from being flat. Under this heading I should like to speak of the character of the soil. It is most desirable to avoid a rocky formation (I speak from experience)—It is a very costly development which encounters the handling of rock in any form. Then too, it is unattractive and where encountered the surface of the land must be covered with soil in sufficient quantities to grow grass and shrubs. In formation of this kind, all trees must be planted in large holes and the bottoms of these holes should be shattered with explosives so the roots will have a chance to reach out and down.

5. It is needless to mention again that any desirable physical feature is an asset. Native trees come first—they are invaluable, nothing can be so desirable as native trees. Natural streams are, of course, most desirable but seldom in Texas are they found so placed as to be of use. When they are found in a property, the plan

naturally is largely based on them, the basic lines are laid along them and it becomes comparatively easy to work out the balance of the development.

6. Thoroughfares leading to the property must not be overlooked. Unless the site is readily accessible by automobile along direct and attractive streets over which one can quickly reach his home it will be a great handicap. The more thoroughfares the better. No better example of the soundness of this consideration can be cited than Munger Place which has five or six streets leading directly into Dallas.

7. The character of property through which one must pass to reach your development is another important consideration and while, other things being favorable, it would not be a deciding factor, yet it is most desirable that the property along the route be of such character that it invites rather than repels the traveler.

8. Of greatest importance is Transportation, by street car or interurban, to the property. One can possibly develop and sell property in these days of automobiles without any car service, but it will mean that the sales will go very slowly and that an endless amount of dissatisfaction will result to those who do buy. We all need the car some of the time; some of us prefer to use it constantly going to and from our business and then we must have consideration for the servants or we cannot hope to keep them, even if we can obtain them where there is no car service or indifferent service. A property cannot be too well served in the matter of car lines, as the property grows it must have additional lines or the growth will be very slow. It may cease. Four or five blocks is about the maximum distance people will walk and even this is too great. Three blocks is far enough to be away from some form of car service or train service.

Planner.

Having selected the site let us now select the Planner. Or perhaps we should have had the Planner help us select the site. I am sure this would be the sensible thing to do, for a man who makes planning a profession would have far more judgment in the choosing of a site than any layman or any real estate man—perhaps I should have said Realtor. In this day of specialization we naturally would turn to the City Planner, rather than to any other man for a plan. He, the City Planner, will have con-

sideration for the interest of the city of which our property is some day to be a part, and this is something often not considered. We shall then select some one of the outstanding men of that profession just as one selects a good architect to plan his home, rather than a contractor.

Making the Plan requires time and thought—it requires detailed engineering data—there must be no guess work—accurate measurements must be known and recorded. Plan after plan will be drawn and discarded. severe criticism by a number of interested persons will finally result in a plan which is acceptable. Mr. Kessler took a full year to perfect the plan for Highland Park West, although the rough draft of the first few days was substantially the same as the finished plan.

Essentials of a Plan for a Modern Suburban Addition of the First-Class:

A. The plan should be attractive.

It should follow largely the natural contours of the property and every possible effort should be made to conserve and improve all natural scenery. Illustration.

B. The plan should be practical.

Too many times we find sub-divisions laid out along impractical lines, no regard being had for through traffic.

Streets should, if possible, swing in graceful curves but a few straight streets are not objectionable. Lots should be rectangular rather than odd shaped, if one desires the maximum yield of salable property per acre, but a capable planner will invariably keep away from a monotonous checkerboard development by occasionally curving a street in a graceful fashion without losing sight of the practical workableness of the plan.

C. Size of lots.

The modern planner takes cognizance of the automobile and provides traffic streets amply wide, say 40 feet, to care for a maximum load of traffic. These streets connect in a convenient way with established traffic ways leading into the city. They also provide for outlets into the adjacent territory, which has not been developed. Roads leading from the country through the property, must, of course, be duly considered. From these large traffic ways lead off quiet, and I should like to stress that word — quiet — residence street; much narrower in width, say 30 feet, or even 25 feet or 20 feet. On either

side, rather wide sidewalk and tree planting spaces must be provided for. Here away from the noise of the highways one can really enjoy home life in the fullest. Here children are comparatively safe from accident—more and more in the better properties in the leading cities are the people refusing to buy on traffic streets and I am informed by a member of our Conference that he is obtaining the highest prices, not on the boulevards or heavily traveled thoroughfares, but on the very quiet, comparatively little traveled residence byways. I say byways in contra-distinction to the highways or traffic streets.

D. Parks, Playgrounds, School Lots, Church Sites, Golf Clubs, Riding Schools, Bridle Paths, Business Sections, Gasoline Stations.

E. Water supply, conveniences, reservation strips vs. alleys, no poles on streets.

D. No modern city for residence is complete unless it has those features with which we are all familiar.

First—Schools, and in planning we must set aside available sites for ample school facilities. In this connection, I would have you profit by the mistakes many of us have made, and make provision for playgrounds for the children. More and more do we realize that playgrounds are one of our greatest assets in the proper rearing of our children, really an insurance against the corruption of the morals of our youth, especially where supervision of such playgrounds is had.

Churches—Then the Churches must be located conveniently, preferable in our midst. This can be and is being done successfully in many properties; when I say successfully I mean without any detriment, from a sales viewpoint, to any surrounding property. To do this, however, requires careful architectural, as well as landscape planning. It has been done most successfully in Forest Hills Garden, just outside New York on Long Island.

Parks—We must have parks, they cannot be afforded in small properties. In large properties they can be charged off in some way as a part of the development cost. The amount of land set aside for parks must be in proportion to the size of the development. In Highland Park so far, 20 per cent of all property is set aside for parks. This is rather unusual, I believe, as compared

with other similar developments, and was largely the result of the character of the property. A great part of the property lent itself admirably to park use rather than to purpose of residence. Five per cent of properties would be a fair proportion for parks, it will also more than repay you for using it in this way.

Golf Clubs—Golf Clubs are the most desirable features that can possibly be connected with a suburban development. Nothing else can possibly have so beneficial an influence on a property. The reason is plain, I am sure; the American Business Man wants his Golf. It is fast becoming his only hope for recreation and exercise. He wants it near his home so he can plan late and yet be in time for dinner. The whole American family are taking to golf and consequently properties near Golf Clubs are popular with home builders. If I were to name the chief reason for the success of Highland Park, I should unhesitatingly say the Country Club. Mr. J. C. Nichols has built three in his property, these in addition to the Old Country Club.

Horseback Riding—Another feature that is fast becoming an important one is horseback riding. The ladies do not all wish to play golf, some wish to ride. Many men are also becoming interested. It is wonderfully fine for children and while some may not care for it, I predict that there will before long be hundreds of horses, either privately owned or for hire here in Dallas. Therefore, on account of this recurrence to an old custom we should provide bridle paths for riders in our modern subdivision and I am at present seriously considering the building of bridle paths in the Highland Park West of our property which we will soon begin developing.

Business Section—Something we have overlooked as not necessary is a suburban business section. It is a real necessity. We should plan for it in an intelligent way. We should control the architecture of the buildings and the grouping of them. Recently on Preston Road we had a part in the planning of the stores erected. Our Architect made one plan outright which we gave to the owner and in another case we contributed towards the Architect's fee, having a voice in the approval of the plan. This was because we were trying to work out an attractive situation where if left wholly to the individuals we felt something less attractive might have resulted.

Lake Forest, Illinois, has a wonderful store development where English Architecture has been used to obtain more pleasing results in the way of a suburban business.

Under the head of necessary business, as may be mentioned, Groceries, Meats, Drugs, Cleaning Establishments, Restaurants, Novelty Shops, Greenhouses, Nurseries, (making a specialty of landscape planting and selling shrubs), Hardware Stores, Barber Shops (where special attention is given children) and there is a growing need in the larger developments for offices for Doctors, especially for Dentists and Specialists. Many kinds of business have no place in or near large residence properties, but all those above mentioned are really needed and are thriving in a number of cities I can mention. Gasoline Stations are of course necessary as are one or two first-class garages where emergency work can be done on cars and tire service given.

Water Supply—A permanent and adequate supply of pure water is absolutely necessary. No property can succeed without this. Either the developer must provide an independent supply or he must rely on the City Water for serving his purchasers. If one is inside the city this can be arranged; if outside it is rather difficult. Our own property was far beyond the city when we began our work and we were compelled to drill a small well and install a pump. We soon found that we were really in the water business and we began to enlarge our supply and our pumping facilities until now we supply about 600,000 gallons of water per day. One should be careful to install a distribution system that is a standard one, for some day the property will become a part of the city and only standard pipe and fire hydrants will be acceptable to a modern city. Plans must also provide for all other conveniences such as telephones, electric lights, gas and sewer mains.

Sewerage must be disposed of, or run into the City mains as is done by Highland Park. Each connection there pays $4.00 per annum, an extra charge is allowed our Company of $2.00 per annum for which we agree to repair and maintain all mains and collect all fees. The City of Dallas disposes of all sewerage from Highland Park.

In the modern plan, alleys are eliminated and reserva-

tion strips along the rear of lots are platted. Here are placed all public service equipment and all water and sewer pipe. In most places poles are erected here and never in the streets unless it be side streets where there are car lines. A single line of poles usually serves for both phone and electric wires.

Restrictions—Restrictions, or as we like to call them, Protections, are the life-blood of a high-class development. They invite people to build because they protect. They guarantee one against the encroachment of undesirable neighbors and surroundings. They are the explanation of the success of all the best sub-divisions. Without them there would never have been such things. The inauguration of them created the first real Residence City. One must give a great deal of time and thought to the formation or declaration of restrictions. To know what others have done is the best way to inform one's self of what is best for one. All developers are glad to send copies of their contracts and deeds which cover their entire requirements.

The kind of houses one may build; the distance from the street; or from the side lines; whether fences may be built; where out-houses may be erected; restrictions as to race, etc., all these points must be covered fully and clearly before one begins to offer one's property for sale. All this entails the advice of a competent lawyer who must spend weeks in investigating what others call for in their deeds and contracts. You will also need this lawyer until your last lot is sold. Don't forget that.

Referring to the restrictions as to the house that may be built on any given lot, most developers are now merely "reserving the approval of plans." The approval of plans is **very broad** and confers on the seller autocratic power of decision. It is the best method, for to say that a house shall cost not less than $10,000 or $5,000 means very little in these years of fluctuating material markets and smooth and unscrupulous builders. I do not say all builders, mind you. The approval of plans is positive and final.

You should also incorporate into your contracts and deeds and agreement that the purchaser shall pay a small annual maintenance charge per front foot. This will be about 7 to 10 cents per front foot. This creates a

fund that is administered by a Board of Trustees elected by the property owners who shall see that all grass sidewalk spaces are kept cut, trees looked after and replaced and all shrubs trimmed and trash hauled away from gutters. Also little parks are maintained from this fund. If there is a Village or City Government this fund is still a necessary and desirable thing. Put it in your contract and deeds. Self-perpetuating restrictions are better than limited ones.

Abstracts or title policies with each lot are necessary in selling and care must be taken to perfect your title before buying. You must be ready to give perfect title to your purchaser without the slightest delay. A title policy is best.

I shall not talk in detail about the actual physical work of development more than to say: Get you a most competent engineer, preferably a resident engineer, one who is on the site at all times. If you are going ahead with your work on a fairly large scale you will have enough work to keep you busy. Profiles of streets and water and sewer take up much of his time. Careful study and accuracy will save you much money. A poor engineer is worse than none. Most work can be done more economically by contract. Separate your contracts. Let a separate contract for your dirt work and carefully plan what you are going to do with the dirt before you start, thus avoiding the moving of it the second time. Contract your paving, sidewalks and other work, if possible, though I like to do my own water and sewer work for the reason that I then know that I am not going to be bothered with leaks and faulty construction, after it is finished. Some contractors on this class of work are not so awfully conscientious.

Plant trees, plant shrubs, if necessary, and cut all weeds. Keep the property looking clean and good. Finish your property—leave nothing undone. Make it the best to be had and you can almost name your own price.

Sectional Development—50 acres at a time.—Different classes of property make competition or contrast in the property. In a large property all of it cannot be developed for the highest priced residences. Set aside a section for moderate priced homes; also a section for cottage homes. In this way, you get a well balanced community and having several classes of property you naturally ap-

peal to more people and sell your property out in a shorter time, thereby you turn your goods faster, which spells profit. It is desirable to have some streets where cottages may not be built, for many people, who construct large homes, want like homes to surround them. Also we have tried brick or hollow tile construction exclusively, on certain streets, with good selling results and much satisfaction to the builders.

Street lights and intensive development of parks is best left to the community after it is organized. There is a point in expenditure where one who develops must stop or lose money. A great deal of idealism is necessary, if one expects to make a real property, but this must be balanced by practical considerations.

Selling.—Although my subject does not cover more than the development, yet, I cannot close without saying a word about selling. We have tried various plans in selling our property and from experience extending over many years we have definitely come to the conclusion that in order to do full justice at all times to a large residential development it is absolutely necessary that a well organized sales force, which shall specialize in this particular property, and no other, is necessary. In fact, it is not only my experience, but it is the experience of any number of men who I could mention, that a sales organization, specializing in the sale of the property, is the correct method for handling it in a most efficient and economical manner. While there are a great many excellent sales organizations which do general business, and they are found in every community, I do not believe that with their varied interests in the real estate business that they can concentrate sufficiently on a property to do it full justice, that is, if it is a very large development. Also we have tried the method of having no particular firm work on a property and placing it for sale in the hands of all real estate agents. We have found this method is to be almost without any results and it was discontinued a short time after its inauguration. We have finally come back to the plan as outlined above,—a selling organization specializing entirely in the sale of our own property and in resales of every kind within the property. I would like to stress the last statement, the resale of all property within the development, for if a property is to be active and prices are to be maintained and advanced, then those parties who desire to sell must find a ready

market for their offerings, and it is only by the cooperation of the developer and his selling force, as well as through the help of all other agents that this can be done, consequently we use every endeavor to find a market for all property which is offered, whether it be ours or whether it be the property of others.

Community Spirit.—In closing I want to finally speak about community spirit. I first started to say that this is something new under the sun, but on second thought I wish to change that and call it a recurrence to an old time honored feeling of neighborliness.

As we have moved gradually from the country into our cities until it is sometimes a serious problem as to who shall till the soil, our communities have grown to be so large and so complex, with such a diversity of interests and such a mixture of peoples, that gradually there has ceased to be any spirit of neighborliness and friendliness. It has come to be the case that the man next door is hardly known to you, and if he is it is merely a speaking acquaintance. This extends into the household, your wife does not know his wife and his wife does not know your wife, and so this coldness and indifference on the part of every one has grown up in the cities to a point where there could not be said to be much friendliness or neighborly feeling existing. There have been many real reasons why this has come about, and most of us have come to the conclusion that it will never be overcome in cities generally. But this is not the case in suburban residence cities, where the protections are of such a nature that they invite people of a class—and by that I do not mean too exclusive a class—but home-loving hearts, people who want to get out of the crowded, dirty, friendless city, into the great outdoors and into God's fresh air. It just naturally happens that after your property is developed to a certain stage, you will sum up the class of people that are living within your gates, you will inevitably find almost without exception in protected properties, that each one of the people therein has the greatest heartfelt desire to be friendly with the man next door, for they feel that their children are perfectly safe in playing with the children next door and one thing leads on to another until all this develops something which I have referred to above, called COMMUNITY SPIRIT, where each one in the property becomes an advocate of the property and exerts himself to do his some-

thing or her something towards the propagation of this neighborly feeling. One can readily see that with everyone in the property in such a frame of mind it is the pleasantest and easiest sort of task to do a number of community things which cannot be done in mixed communities, for the spirit of co-operation is lacking. Having this thought in mind many of the leading residence cities of the country have laid out elaborate plans for the development of the Community Spirit and are doing things worth while.

Forest Hills Gardens on Long Island, just outside of New York City, has organized a Celebration Association, composed of everyone in the property. Each contributes a small amount per annum, say $1.00, which goes into a fund administered by three Trustees for the Celebration Committee. On the Fourth of July, their greatest celebration takes place and consists of a fitting celebration of the National Holiday by having an annual picnic, parade and public addresses by Nationally prominent people. I remember on one occasion Theodore Roosevelt was the principal speaker, about two years before his death. Their other celebration is the Christmas Carols on Christmas Eve, where practically all of the younger members of the community, after being thoroughly trained for weeks, march through the streets singing Christmas Carols. If one stops to analyze this sort of program he cannot help but be impressed with the tremendous value of it in binding together the interests and sympathies of the people. There is no amount of paid advertising in the world that can take the place of just a little bit of this community spirit, for others on the outside looking in are envious of the neighborly feeling that they see displayed and consequently are drawn irresistibly towards the property, with the result that those who have inaugurated the same are more than repaid for their trouble.

Other things along this line are the Garden Players of Forest Hills, who organized within the property, and gave monthly a play of some kind in the auditorium of the Hotel. Community Centers and Community Clubs, as well as organizations like Improvement Leagues, and Mothers' Clubs, help to further develop this spirit in a wonderful way. In summing up all of those things that are of paramount interest and importance in the development of a property, I unhesitatingly place the development of the Community Spirit as the greatest of all.

HISTORY AND DEVELOPMENT OF BUSINESS PROPERTY

By Fletcher F. McNeny.

In the discussion of this subject we shall confine our observations to the history and development of business property in America, changing the old adage to "As goes America, so goes the universe." Of course the history and development of property in this country is not different from that of other nations, as the same things that enter into the value of property today entered into the value of property centuries ago. Human nature is the same in every age, the change in men is but a matter of environment.

Since the beginning of man, there have always been markets where they bought, sold, bartered and exchanged their wares. In the medieval ages they met for this purpose at the port, ferry, or the cross roads, and later at the store, villages, towns, and now in the great metropolitan cities of this country. We remember back in biblical times they met in the synagogues, so we find a demand for business property more than 1900 years ago,—and I have no doubt there were realtors in those days just as there are today. Since the early landing of the Pilgrims there has been in this country, as in others, the demand for what we now call community centers, where men may gather for social as well as commercial relations, and in those days for means of communication as well. It was through this means of communication that the Boston Pea Party was held and we recall how quickly the news spread from Narragansett Bay to the remote hills of the White Mountains, with the result that practically the entire populace of New England quickly assembled in Boston to acclaim their loyalty to this country, as well as their freedom from the oppressive taxation of England.

So the community centers of today are as old as mankind, and have served the successive generations in more highly developed and civilized states.

As the populace gathered at these various ports, ferries and cross roads, for their respective community centers, the demand came for markets, stores, shops, etc.,

and hence the acquisition of suitable land, by purchase or otherwise, to accommodate their need, so in this way, as has been explained in a previous lecture on the development of real property, man became the owner of real property for business purposes, or what we might term today, highly developed business property in the twenty-four hour district.

In those days the community centers grew into villages and the villages into towns, in a haphazard way, for no one expected them to ever grow larger, nor knew how to plan them if they did. It soon became quite apparent however that the villages located at the ports, and on the main rivers and highways, would come in for the larger volume of trade, so those commercially inclined began to seek the most advantageous locations in the villages which gave the most promise, and the Realtor soon found a healthy demand for his prominent corner lots in the business district.

Work was begun to get more highways, and establish larger trade territories by reaching out through these highways into the interior. With the invention and development of steam power it was soon seen that the railroads would revolutionize trade conditions in this country, and while the railroads wanted to get into the villages it was also realized that the transportation lines would develop trade centers wherever they operated. And so it is today, the main lines of transportation, whether water routes, highways, railroads, electric lines, or main arteries of traffic in our great cities firmly and definitely establish the value of our business property.

As the great railroads and highways began to establish trade centers in the villages, they rapidly grew into larger cities, which of course proportionately enhanced the value of their business property, for the more people any property can serve, the greater its value. And so today we find our merchants seeking locations on the most crowded thoroughfares which will serve the greatest number of people, and here we must differ with Emerson, who said,

"If a Man—

Can preach a better sermon,
Write a better book, or
Make a better mouse trap
Than his neighbor;

Tho' he build his house in the
woods—
The world will make a
beaten path at his door."

We cannot altogether agree with this theory, beautiful as it is, for in this modern day of commercialism, no matter how good a mouse trap a man can build, he wants a location in the most congested district where the traffic count shows the greatest purchasing power.

Innumerable things enter into the value of business property, which to the casual observer would seem almost trifles. For instance, you will recall the country town where every store had a different floor level and the sidewalk a veritable stairway,—up three or four steps to one store, and down four or five to another. Imagine the modern merchant whose store level is not flush with the sidewalk. On Elm Street in this city, a well established merchant outgrew his 25 foot store which was one step above the sidewalk. He leased the adjoining twenty-five foot store and enlarged his establishment. The new store was flush with the sidewalk and the front was made a duplicate of the original store. The merchant told me that about 75% of his business originated from the side of his original store, and yet 90% of his customers walked 25 feet further up the street to enter the store flush with the sidewalk, rather than step up one step. Of course this was done unconsciously. But in this modern day of scientifically dealing with our problems of commerce, and industry, an effort is constantly being made to reach that subconscious mind, to ascertain, analyze and develop that power which makes a man do a thing unconsciously.

The Realtor should have a thorough knowledge of the past history of his city, its present growth and development, and its future possibilities. He should know the strength of its financial institutions as manifested by their clearing house receipts—the general volume of mail handled by the postal department as shown by its receipts—the climatic conditions—the beginning and length of the four seasons—the average temperature and precipitation of each—the different nationalities represented in the city, together with their customs and peculiarities—the volume of traffic and its purchasing power.

Business districts grow along the lines of least resist-

ance toward the larger residence sections, and rapidly enhance the value of the property upon which it encroaches, converting old residence districts into semi-business property,—and later business property. The development, however, is natural, normal and anticipated so far in advance that the economic loss in improvements is almost trivial. I mean by this that the owners of close-in residence property soon see the trend of development, and knowing that the utility of the property will soon be changed by the encroaching business district, will not spend money on alterations or new improvements, thereby reaping the full benefit of the increased value with a minimum loss in depreciation. The development can and should be encouraged by the erection of buildings suitable for business purposes.

The wise investor, through his dependable Realtor, who early acquires substantial holdings in advance of the city's growth, erecting buildings commensurate with the potential needs of the district, is laying the foundation of a great fortune for his and posterity's use. In this connection it may be interesting to you to know that 60% of the world's wealth is represented by investments in real estate. It is likewise true that a large per cent of those who have accumulated a comfortable portion of this world's goods have laid the foundation of their fortunes by investing their savings in well selected real estate.

Some forty years ago, a man by the name of F. B. Hite, living in Houston, Texas, died, leaving a wife and two children. His earthly possessions consisted of an insurance policy for $2000.00. The wife took the insurance money and went out Main Street in Houston until she could buy a fifty foot lot for $1000.00. Not wanting to put all of her eggs in one basket, she decided to come to the promising little village of Dallas and invest the remaining $1000.00. She went out Elm Street until her $1000.00 would buy a fifty foot lot here. She then set herself to the task of educating her two girls. As time went on, she improved these properties with frame buildings commensurate with the needs of that time, from the savings she had earned from the sweat of her brow. From the revenues received from her investments she was able to lay aside a sufficient amount to take care of a later building program which called for the erection of brick buildings on the two lots, which of course substantially increased her revenue.

Long years ago she and her two daughters moved to New York City and have been living comfortably on Fifth Avenue, if you please, on the revenues received from these two properties. It will be interesting to know that the Houston property is located in the block with the Rice Hotel, and the Dallas property is on Elm Street in the rear of the Praetorian Building. These properties are now yielding an income of approximately $60,000 per annum.

In Chicago in 1908 a 99 year lease was made involving a 98 foot frontage at 336-348 South State Street at an annual rental of $40,000. In 1913, five years later, the same property was subleased for the entire term at an annual rental of $80,000, showing a profit of $40,000 a year for 95 years.

In New York in 1900, 42x100 feet at the corner of 5th Avenue and 57th Street sold for $175,000.00. Last month when Sakes & Company purchased the entire block except this tract, it leased for 66 years at an annual rental of $100,000.00 which is a 6% return on a million six hundred thousand dollars, or an increase of a million four hundred thousand dollars in 20 years.

In order to get the maximum value of your property and develop it to its highest efficiency, special attention should be given to city planning. The first consideration should be wide streets permitting the natural flow of traffic without any artificial barriers,—I mean by artificial barriers, railroad tracks, narrow streets, topography of land, etc.,—all of these are artificial barriers to proper city development, and hence have a decided bearing on the value of property. Just what I mean can be easily illustrated by reference to the business district of Dallas —the Trinity River has blocked any development west, and land just across the river is worth about one-tenth of what it is on the east side; the railroad tracks on Pacific Avenue and Marilla Street constitute artificial barriers to natural progress and consequently the city has been forced into a shoe string development from the river on the west to the H. & T. C. tracks on the east. When the business district reached the tracks in east Dallas, the need for normal expansion was quite apparent, which called for the elimination of some of these barriers to progress, which resulted in the removal of the tracks from Pacific Avenue.

Chicago's business district is confined to the loop be-

cause of the overhead transportation lines augmented by the further fact that people are naturally timid about passing under overhead tracks.

New York's business district has developed 10 miles out Broadway and 5th Avenue because they are broad and natural arteries of traffic, augmented by the fact that practically all of the side streets are narrow. 23rd and 42nd streets are the exceptions, and both of these are developed in proportion to their width and ability to carry the traffic.

With the introduction of the automobile came the necessity for even wider streets to accommodate the larger volume of vehicular traffic and in some of the larger cities the complete rearrangement of the transportation lines in an effort in so far as possible to give alternating streets to use of street car patrons, and likewise alternating streets for the automobile traffic. Owners of business property should be careful students of traffic conditions, as well as every other element that enters into its value, for the very sufficient reason that an overcrowded or congested condition will detract from the value of the property. I have seen places in the larger cities where the sidewalks were so crowded that only those on the extreme inside could get a glimpse of the show windows, and even their attention was constantly required to avoid collision with other pedestrians.

With the growth of our larger cities and the constant change in business methods and conditions I sometimes think it requires a great deal of courage on the part of the property owner to spend large sums in the erection of office buildings, hotels, etc., which are so soon to be antiquated by others with improved methods and conveniences, and in this connection I cannot too strongly recommend to the property owners the advice and assistance of a competent realtor, on the erection of any contemplated improvement.

The comparatively new building at the southwest corner of Main and Akard Streets in the city of Dallas, is an outstanding example of the lack of proper advice by a competent realtor, and an utter failure on the part of the owner to appreciate the conditions governing the value of his property. Almost before the building was completed it was quite apparent that it was in no wise commensurate with the value of the property, and a detriment not only to his own property but the entire neighborhood as well.

This new improvement on one of the best corners in Dallas, stands in the shadow of five skyscrapers and yet the revenue from the upper floors hardly pays the cost of operation—the investment in the upper floors representing an economic loss of probably $50,000, and limits the earning power of this splendid corner to the returns from the ground floor.

On the opposite corner the Southwestern Life Building is a maximum or 100% development, while the Busch Building across the street is architecturally wrong, which depreciates from its rental value—the court should have been on the south side instead of the north. A southern exposure to all of the ofifces such as the Magnolia Building will have would make the Busch Building much more desirable for a climate of this kind. The American Exchange made the mistake of building a 60 foot building on a 100 foot lot ,thereby losing fully 25% of its productive value. The original Adouphus is beautiful architecturally, but thousands of dollars were spent in erecting a monument to Adolphus Busch with the result that the investment is top heavy and will not yield a reasonable return. On the other hand, the Adolphus Annex is a 100% development. The Praetorian, Western Indemnity, Southland Life, Texas and Pacific, and Dallas County Bank Buildings are 100% development. The Neiman-Marcus building is an economic loss to the holders of the lease, as the property will stand a much higher development. This applies also to the smaller properties. In this day of advanced business methods a great deal of thought is necessary in the erection of buildings that will probably stand for generations. Light, air, and ventilation are essentials, floor elevations, height of ceilings, type of construction, and many other things on which you need advice. Basements are of no value in this climate and should always be discouraged. Any builder should take into consideration the property on both sides and develop harmoniously in the highest degree of efficiency with the maximum floor area.

The leasing of stores for retail purposes has recently become one of the most scientific studies in the real estate business.

The retail marketing of merchandise through a system of chain stores in all of the important cities of the United States by the original manufacturer, has created

a new demand for choice locations, and the realtor, in order to be able to handle this class of business successfully, must thoroughly acquaint himself with the following facts and information,—the general boundaries of the retail section of the city; the streets in the retail section best suited for the location of retail stores handling men's, women's, and children's furnishings; the streets best suited for the location of stores to be patronized by the wealthy, medium and poor classes of shoppers. He must also know the quality and character of the traffic and its purchasing power.

Of equal importance with the leasing of stores are the buying, selling and leasing of real property for manufacturing purposes. Here too, expert knowledge of the following facts is of tremendous importance,—type and strength of structure,—general plan of construction,—accessibility to transportation,—location of plant in regard to its proximity to a desirable and ample labor market,—adaptability for special lines of business.

The realtor should know the peculiar advantages of his city as a distributing center, also, its traffic rates and their breaking points,—the availability and cost of coal and other fuels and raw materials,—the cost of labor and his city's housing facilities. All of these things enter largely into the value of business or industrial property.

It is interesting to note the sale and rental value of 25 foot units in the highest priced retail districts of other cities and I have therefore compiled this data on about twenty-five (25) of our leading cities in various sections of the United States.

Town	Population	Size	Value	Rental Value	Value front foot	Monthly Rental	Rate of Return
Kansas City	324,000	25x100	$300,000	$24,000	$12,000	$2,000	8%
San Antonio	161,000	25x100	87,500	10,500	3,500	875	10%
Springfield, Mass.	130,000	25x100	187,500	22,500	7,500	1,875	10%
						Net	
Detroit	998,000	25x100	750,000	50,000	30,000	4,000	6%
Pittsburgh	588,000	25x100	500,000	25,000	20,000	2,000	5%
Atlanta	200,000	25x100	250,000	20,000	10,000	1,650	8%
Minneapolis	380,000	25x100	200,000	18,000	8,000	1,500	9%
Houston	138,000	25x100	150,000	12,500	6,000	1,000	8%
New Orleans	387,000	25x100	250,000	25,000	10,000	2,000	10%
El Paso	78,000	25x100	87,500	6,000	3,500	500	7%
Los Angeles	576,000	25x100	450,000	32,500	18,000	2,700	7%
St. Louis	772,000	25x100	500,000	25,000	20,000	2,000	5%
Birmingham	178,000	25x100	175,000	15,000	7,000	1,250	8%
Washington, D. C.	438,000	25x100	375,000	37,500	15,000	3,100	10%
Fort Worth	106,000	25x100	200,000	10,500	4,000	875	5%
Cleveland	798,000	25x100	500,000	25,000	20,000	2,000	5%
Baltimore	733,826	25x100	250,000	25,000	10,000	2,000	10%
Chicago	2,701,705	25x100	750,000	60,000	30,000	5,000	8%
New York	5,621,151	25x100	500,000	35,000	20,000	3,000	7%
Portland, Ore.	258,288	25x100	112,500	15,000	4,500	1,250	10%
Dallas	158,976	25x100	150,000	15,000	6,000	1,250	10%

As evidenced by the foregoing, sooner or later the value of all business property is based upon the rate of return on the investment. In the fast growing cities of the southwest the unearned increment figures largely in the value of property in the path of the city's development. For instance, in certain well defined districts of any rapidly growing city, realty values will increase easily 10% per annum. If therefore the investment is paying 4% net on its market value, and is increasing in value 10% per annum, you can readily see that the owner is making 14%. You will notice from the data I have compiled that the rate of return is larger on the investment in cities that have reached the maximum growth, or where the development is circumscribed, which shows the absence of the unearned increment. If there is not a reasonable expectancy of increase in values the owner is entitled to a larger rate of return,—the rate being based on the earning power of the dollar at the time the lease is made, plus its reasonable expectancy.

City planning and zoning should have a peculiar significance and should be of especial interest to the realtor. Along with the merchant and manufacturer, broker and banker, it will no doubt interest the realtor from a viewpoint of civic pride; but aside from this general interest, it should appeal to his business judgment, because city planning, and zoning, in particular, vitally effect the saleability and value of every piece of property in the city.

Looking at it, therefore, from a purely business standpoint, what is more important to the permanent success of the real estate business in any city, than a comprehensive, intelligent city plan, which will regulate and guide the growth of that city along the lines of its varied activities?

Increase in population and its corresponding increase in wealth, will largely affect real estate values, but there is nothing that will aid more in stabilizing these values, when created, than effective zoning.

The progressive Realtor is thoroughly familiar with every phase of his city's activities, as they relate to and concern real estate and its value. He knows what sections are and should be, restricted for residential purposes. He knows what sections possess the peculiar advantages necessary to attract the manufacturer. He knows the problems of the rental section, the danger of congestion and

overcrowding, the trend of the city's growth as manifested by ever increasing values in certain downtown sections and diminishing values in others.

In closing I want to call your attention to the fact that out of a total of one hundred eighty seven billion dollars invested in America, one hundred ten billions, or 60% of the total wealth is invested in real property and is the foundation of all the large fortunes.

The ideal investment is that form of security which possesses in a high degree the following characteristics—Safety, Productivity, Convertibility, and Speculative Value, without sacrificing one for the other.

Real property as an investment, when compared with other forms of securities, combines the above characteristics in the highest degree.

Real property as an investment is not dependent upon the moral credit of a nation, and is therefore not affected by warfare. It is not dependent on the honesty or competency of a board of directors. It is not affected by industrial or financial panics. It cannot be stolen, nor can it take wings by night, nor can it be taken away without the due process of law. No other form of investment possesses the characteristic of safety in so high a degree.

TRUSTEES AND PROPERTY MANAGEMENT

By G. N. Aldredge.

For more than two hundred and fifty years the well defined functions of banking which involved deposits, discount and other well known banking features constituted the principal activities of the banking fraternity. Around these fundamentals have grown up many methods and practices which have been incidental to the main purpose of banking and have been merely extensions that have been forced on the banks by the growth and expansion of industry. The business methods of our ancestors, their means of transportation and the implements with which they sowed and reaped were changed from year to year. It would be a sad commentary upon our intelligence if we had learned nothing from example in the banking business in these two and a half centuries.

The financiers of the old school were accustomed to deal almost exclusively with individuals and whenever the necessity was forced upon them of choosing an agency combining the qualities of honesty and good judgment they naturally selected an individual. Modern business, however, has become so complex in its various features that financiers of today do not have the opportunity to become acquainted with the individual as they formerly did and from this situation has developed what we in modern times call a Trust Company. For two hundred and fifty years there had been comparatively no changes in the essential features of the banking business until the Trust Department was organized. In recent years even National Banks have acceded to this growing demand and are putting in Trust Departments with their regular commercial banking features. All this preliminary leads us naturally to the question "What is a Trust Company?"

Possibly the best way to answer this question is to state that the modern Trust Company is really a financial Department Store; and by telling you of the various kinds and characters of its different departments, the functions that these departments perform, and the purposes and ideals that animate the officers who run them, I can give you a clearer idea of what a trustee, as represented by a trust company, really is. From that I shall lead to the subject under discussion which is Trustee and Property Management.

The word Trust is so ambigious that when we begin to chase it around and try to pin it down to find out just what it is, it is almost impossible to give a definition. Trusts are acquired by an institution in a great many ways. I have subdivided the methods of acquiring it and the kinds of trusts under several heads, as follows:

I.

First, what is known as Agency Trusts. This is the simplest form of all trusts. It is merely acting as agent for the individual and I think it started back a good many years ago when some old lady left her pocket book on the counter with the request that we take care of it until she got back.

II.

The second form of trust is what is known as "Trust by Agreement," called voluntary trusts which includes escrow accounts. This division includes any character of property placed with an institution to be handled for a specific purpose designated by the person who places the trust with the Company. Escrow accounts of course are so simple that I do not need to dwell on this point as they are always placed with a joint agreement, the conditions of which when complied with release the trust according to the original terms.

III.

The third method is trust created by will. This is probably the most important feature of the activities of a trust company and I will merely outline it here, as a more complete discussion of it will be taken up later. Wills designate trust companies to act for them under the heading of executors and trusteeships.

IV.

The fourth is Trust by Administration. This includes two kinds, known as Permanent and Temporary Administrations. Both are appointed by the court and are for the handling of property placed in the hands of the Trust Company by the court order.

V.

The fifth is Trust by Guardianship. This is also a trust acquired through the courts and involves the handling of property belonging to minors, lunatics, habitual drunkards, etc.

Possibly an illustration of these last two points would

be the best method of conveying to you a clear idea of just what these two characters of trusts mean.

Not a great while ago there were two old ladies who owned a piece of property. One of these had the misfortune to lose her mind, and her sister was appointed guardian of both her person and her property. In a short time the second sister died. On solicitation of friends of these two people, the Probate Court appointed a trust company as administrator of the estate of the second sister, and as guardian of the estate of the first one.

The above five methods of acquiring trusts cover the well known and commonly used methods of placing business in the hands of either an individual or a Trust Company for the handling of property for the benefit of some individual or institution designated by the parties handling the trust. So far I have merely confined the outline to an academic discussion of methods of acquiring trusts and now I want to bring to your attention the fact that after the trusts are placed in an institution they are distributed out to the different departments of the institution by the character of the business of the trust. The trust company for this purpose has organized its business into about four departments.

The first one is the department handling what is known as corporate trust matters. This includes trusteeship of industrial and manufacturing concerns. This trusteeship is designated usually by a mortgage under which bonds and notes may be issued and such issue usually being certified as to its genuineness by the trustee.

In the second department is handled individual trust matters. Under this are handled estates and property which come to the trust company under the provisions of wills, voluntary trusts, etc.

The third is known as the transfer and registration department. Here stocks and bonds of a corporation are transferred on the books of the Trust Company at the request of the corporation; or being transferred elsewhere are registered on the books of the Trust Company as a check against the transfer agent.

The fourth department is called the Agency Department. This department receives securities and properties of clients which it handles in accordance with general, definite or specific instructions which may be given. The Charters of Trust Companies in the State of Texas per-

mit a Trust Company to do anything that an individual trustee can do. It can receive dividends, can clip and collect coupons from bonds and notes, can purchase and deliver securities, and collect and release notes and bonds. You may readily see, therefore, the very nature of this business involves great confidence on the part of the person who places his securities in the Trust Company.

As an example of what I mean by the confidence reposed in any institution, I will relate an experience and I trust you will pardon me for giving examples of our own business. Not a great while ago a man who is quite wealthy decided to take a trip extending over a period of at least six to eight months and it was absolutely necessary for someone to be appointed to represent him and his business while he was away. This man had investments of various natures which needed attention and in order that things might be properly looked after, he gave to our Trust Company complete power of attorney signed by both himself and his wife which delegated to the bank the right to do anything with that man's property that he could have done had he been present. While he was away, we have collected rents; we have paid taxes; we have collected notes, placing the money on deposit to his credit and when sufficient money has been accumulated we have invested that money for him, usually in Vendor's Lien paper; releases and partial releases have been executed; we have made extensions of notes; clipped coupons and have accepted dividends from corporations located out of the State. I merely recite these facts of the handling of this estate which involved many thousands of dollars to show you that an institution that handles property under the plan as indicated above must be an institution of unquestioned integrity because of the implicit confidence in the institutions by the clients who patronize the trust features of our modern institutions. This naturally brings me to the second division of my subject which is Property Management.

Under two heads can be classified the restrictions imposed on a trust company in the handling of property. First when the instrument creating the trust expressly authorizes investments in certain securities or directs the handling of property, there is no responsibility attached. As an example of this, I would like to relate concerning a particular trust that falls within this category. Sometime past a man died, and willed his entire property to a

trust company, but specifically provided that in case any cash was left on hand after his death it should be immediately invested in United States Government bonds, to be held until such time as the provisions of his will could be carried out. At the time of his death he had accumulated something like $60,000.00 or $65,000.00. The Trust Company, as soon as it qualified as executor of this man's estate, followed the provisions of his will and invested the money in United States Liberty Bonds. At the time of the investment it happened that the bonds were priced considerably higher than they were later. When the provisions of the will were carried out and the inheritance tax had to be paid it was found necessary to sell part of these bonds. The sale was made at a loss of several Thousand Dollars but inasmuch as the will specifically provided the conditions relative to the property left, there was no discretion left to the Trust Company and the provisions of the will had to be carried out implicitly and for that reason no responsibility for this loss could possibly be attached to the Trust Company.

This naturally brings up the question of wills but in a few minutes I am going to take up at greater length this question in its relation to property and property management making some suggestions whereby errors of the character indicated in this little story can be omitted.

The second group of restrictions under property management occur when the instrument creating the trust is wholly silent and the handling of the estate is left entirely to the judgment of the trustee to be handled according to law.

Property management naturally falls into two divisions. The first and most important is real estate and the second is property other than real estate. As you can see, a heading such as this one covers a multitude of sins.

I am first going to discuss for a minute or two the securities other than real estate. In handling property of any character such as stocks, bonds, notes or Government Bonds, it is quite a problem to have a sharp line drawn between investments and speculations, particularly where the question is left entirely to the institution for determination without any restrictions being placed on it by the grantor of the trust. In order that this may be guarded against in our Trust Department we have a meeting of the officers of the institution whenever any question is to be passed on that involves an expenditure of

$5000.00 or over. At this meeting the interests are represented by the following departments:

FIRST, is the manager of the City Loan Department. The head of this Department has devoted his entire time to handling real estate and a major portion of his time for years has been in making loans on city real estate. SECOND, is a man who is head of our Farm Mortgage Department. He handles farm loans all over the southwest section of this country and has been trained in this institution for fifteen years. The THIRD is a practical banker who has charge of the Commercial Banking Department of the Trust Company. The FOURTH is the head of the Trust Department and his time is devoted exclusively to Trusts and their management; and, finally the chairman of this meeting is the President of this institution who exercises supervision over all the departments. In this way every question submitted is thoroughly investigated. And I want to say to you that when any proposition is passed on favorably by this committee, you can rest reasonably assured that the question of speculation in any character of security will be practically eliminated.

Now getting back to the question of Real Estate, I think you young gentlemen have been saturated, certainly surfeited and almost nauseated with the discussion of real estate for the last five or six weeks and I am not going to burden you with a long discussion of the splendors and the many attractions of real estate investments.

I want to give you a few new thoughts in connection with real estate and the trusteeship of either real estate or the securities with real estate as the foundation. Someone has said that real estate is the basis of all wealth. Certainly in our work we recognize the unquestioned merits of securities that have real estate as the foundation.

The handling of property for other people is the principal business in the Trust Department of our institution. Back in the early history of our company the first characters of trusts consisted almost entirely of real estate. As our instution grew, more and more estates were trusteed to us and before long we found a Rental Collection Department was necessary. Further development made necessary the next natural step, a Sales Agency Department for the handling of property of clients of the institution and through acting as trustee for the properties that we controlled. Today we have fully half of the

institution with at least eight or nine different departments that do all of their business based entirely on securities with real estate as the ground work.

In handling real estate, I am just going to rapidly sketch to you a few of the more important departments and their functions. FIRST, we have a Rental Department that devotes its time exclusively to securing and retaining tenants and collecting rents. This department has nothing to do with prices and cannot regulate them. The law of supply and demand takes care of this. The SECOND Department is for collections. We have a City Collection Department and an Out of Town Collection Department. I want to pause just long enough to state that we have come to the conclusion that the collectors constitute one of the live departments of our institution, and are almost the "Eyes of the Office" in reference to real estate, for it is there that we are best able to keep up with conditions of the property that we handle and what is best to be done with this real estate. THIRD, is the Department of Expenditures which pertains to upkeep, repairs, etc., of the real estate. FOURTH, is what we call our Accounting Department, which really keeps the books for the other departments. The rent statement is made up, itemized as to details, and furnished to the Trust Department, and through the Trust Department furnished to the beneficiaries under the trusts that we may handle.

Alexander Hamilton Institute of New York City probably gives us the best definition for the handling of real estate in its final analysis when it says "Management of real estate is really housekeeping on a large scale and includes not only the deriving of income but also the keeping down of expenses."

Before closing the discussion of real estate, I want to call attention to still another department which is known as the Insurance and Tax Department. Here we keep a record of the insurance on all of the properties placed with us, renew the policies from time to time and pay City, State and County Taxes at the regular time. We also make up Federal Income Tax Statements.

Trusteeships.

It is a strange fact that many capable persons who devote the energies of a successful lifetime to acquiring property often give little thought to what will become of

this property when they are dead or otherwise incapable of administering it. This is a viewpoint expressed by Mr. Francis H. Sisson, Vice-President of the Guaranty Trust Company of New York. The question of trusteeships usually involves more or less the question of wills. The trusteeship of money and property is usually acquired by being willed to an institution. This naturally brings us to the question of the importance of wills and their effect on the property left by any person. Modern statutes relating to wills are based largely upon the old Roman Laws. Under these laws freedom to make a will was first unrestricted but later the right to dispose of property was curtailed. The restrictions to the freedom of disposing of property of any character by wills has been changed from time to time to meet modern conditions and these restrictions exist in practically every country. With us today limitations in many respects are imposed by the laws of various states of the union.

When a man settles down to draw his will, two influences usually govern him. These two influences are almost at extremes. FIRST, utter disregard and little thought to the ultimate outcome of his efforts; and, SECOND, the thought that animates the maker of the will in an effort on his part to maintain his authority over property for as long a period as the law will allow. This is what we call a hide-bound or tight will and the purposes influencing this are usually conceit, vanity or desire for fame. These are some of the controlling motives that affect property placed with a trustee.

The next step in the question of wills as it affects property after a man is convinced of the necessity of drawing a will is the importance of having that will drawn. When a man dies and appoints one or more individuals as executors of his estate, especially when beneficiaries are involved, they frequently handle the property in such a way as to defeat the aims of the testator. Right here come in two of the most useful functions of the Trust Company acting as Trustee in the management of property for the maker of a will and that is; FIRST, the willingness of a Trust Company to serve; and, SECOND, the undoubted ability of the Company to handle affairs of any nature. A Trust Company has its best interests to serve by carrying out absolutely the intents and purposes of a person who desires to appoint the Company to represent him in any capacity.

I will pause here long enough to give an illustration concerning an estate in another city that was explained to me by the Trust Officer of a big institution. About a year and a half ago a man died who left approximately Two and a Half or Three Million Dollars consisting of property of almost every conceivable character, from western cattle land to German marks. He appointed several of his relatives to serve as executors and trustee of his estate, a part of whom were beneficiaries under the will and part were not. All of his property was community property and the effort on his part was to trustee his entire estate through the life of the beneficiaries. Now I want to draw two distinctions between what would have happened if he had appointed a Trust Company and what did happen when he appointed individuals. A Trust Company would have done its very best to carry out the purposes of the man who drew the will. The beneficaries under this will actually divided this estate giving to those interested one-half of the estate which was theirs under the Community Laws. The joker in the deal was that in the dividing of the estate every particle of revenue bearing property was set aside to the beneficiaries, and the non-revenue bearing, ("The chips and the whet-stones") was reserved in that half of the estate that was trusted for so many years.

The individual as a trustee in about four cases out of five is a complete failure for a number of reasons. An individual may die, a Trust Company does not; an individual gets sick and neglects his business, a Trust Company does not; an individual may not have the ability, a Trust Company strives to have efficient individuals at the head of its different Departments. A Trust Company has corporate responsibility as opposed to individual integrity. It has vaults for safekeeping as against possibly a desk that is not even fire proof.

I merely bring to your attention some of the thoughts that must come to everyone of us who ever accumulates any property, because the history of property the world over is that the average time in the transference of property is once in every twenty-five years. Now get that thought clearly—that regardless of how long you as an individual may live and handle your property, the average over the world is that all property is transferred at an average of once in every twenty-five years. So you can readily see just how important this question is.

In the old days when a man was ready to ask somebody to act in the capacity of trustee he naturally selected a friend or some individual whom he thought especially qualified. The manufacturer or the big merchant naturally asked his banker. All of them picked out someone with whom they were personally acquainted. Now let me present an idea or two for your consideration along this line. No one would pick an inefficient individual to serve as a trustee or executor. That would be utter folly and on the other hand the more efficient the individual we select to handle our affairs, the more that man is of necessity tied up with his own affairs, and therefore has no time to devote to outside business.

Turning back to the question of wills as it affects property, I want to give you another illustration of what is known as the lack of liberty in handling property. Many years ago in the City of New York a very fine financier willed the bulk of his estate to an institution in trust for his children. Not a great many years before he died he had invested very heavily in a certain class of security which at that time was considered the epitome of safety and success. The old ferries were plying between New York and Jersey, and between New York and Brooklyn, and were among the best paying investments in the city. This man bought the bonds of the Ferry Company and trusteed these bonds, specifically providing that the income should be paid regularly to his heirs and under no conditions were the bonds to be sold. If he had allowed the Trust Company a little latitude in his will the changing conditions would have been offset by the intelligence of the Trust Officers of that institution when they foresaw the trouble coming. This man never dreamed but what ferry bonds would be good for all times. He did not even conceive of a subway along the Hudson River and a bridge across East River. Twenty-five years after this man died the Ferry Company fell into the hands of a receiver, the bonds became absolutely worthless, and his estate lost to the extent of several million of dollars,—but the hands of the trustee were tied so they absolutely could not turn. These things that I am telling you are illustrations from cases that have actually happened and are given to you merely to illustrate the warnings that are thrown out from time to time against the making of wills by individuals without proper consultation with a lawyer, bank or trust company qualified to advise them.

I will tell you of one more case before I change the

subject. About 150 miles south of this city is a plantation of approximately 3000 acres of as fine land as is to be found anywhere. On this plantation there is a big old-fashioned home and in this sits a middle aged man without any of the comforts of life, and almost without the necessities,—tied up by the restrictions of one of those hide-bound wills. Many years ago this man's father willed him that entire farm in trust, the farm never to be sold or mortgaged during the lifetime of his boy. The boy is now a man and through a series of unfortunate crop years and overflow, the management of this property has actually been handled at a loss so that there not only has been no income but the man could not get the money to farm it with this past year or two because in the restrictions on the land no mortgage could be placed on it and he cannot borrow a dollar to farm it with. The result is that this 3000 acre farm has not had a plow stuck in the ground for the last two years and this poor man cannot raise any money whatever to farm this magnificent piece of land.

One other illustration and then I will change the subject. For several years we have been handling an estate that had some bank stock in a little town about one hundred miles from Dallas. Restrictions placed on the estate were such that we could not dispose of the stock. For three years past, because of repeated crop failures, the conditions of the community surrounding this little bank were so bad we foresaw trouble coming for this bank. Six months ago the bank failed and the estate not only lost this stock but had to put up dollar for dollar an assessment equal to the par value of its holding. If it had not been for the restrictions the stock could have been sold at least a year to eighteen months ago, and this loss could have been avoided.

I could go on at considerable length in this same line of thought, but I merely bring to your attention several illustrations to bring forcibly to your mind the necessity for very careful consideration in drawing a will that involves the handling of any character of property and trying to use the judgment that you have today which may be absolutely good now but which may not be worth ten cents on the dollar in twelve months from the time the will is written.

In conclusion, I want you to know that it is a matter

of history that a lawyer was instrumental in drawing up the charter of the first Trust Company dealing with Wills, Trusteeships, Estates and Property Management. The lawyer better than anybody else saw the difficulties concerning the holding of property in trust for someone else and a lawyer was the first one to suggest the idea that later grew into a Trust Company. He discussed his proposition with his banker and made the suggestion that he wished the bank could handle the property just to suit itself for the benefit of the estate and from this idea the first trust company was organized.

By having the ability and the willingness to serve as Administrator, Executor or Trustee in a manner more efficient than any individual, a Trust Company serves a community in an entirely different manner from an ordinary bank. The Trust Company recognizes the obligations and responsibilities imposed on it by the very nature of its business. It is a very solemn occasion when one is asked to advise a man who desires to safeguard his heritage for the benefit of his loved ones. For this reason and because of the consciousness of its responsibility in the handling of estates, the Trust Company will in a few years almost entirely take the place of the individual trustee.

TAXATION

By L. L. Bristol.

"The act of laying a tax or of imposing taxes on the subjects or citizens of a State or Government, or on the members of a Corporation or Company, by the proper authority, the raising of revenue required for Public Service by means of taxes, the system by which such a revenue is raised."—Century Dictionary.

"A 'tax' is a rate or sum of money assessed on the person or property of a citizen for the use of the Nation or State."—Webster Dictionary.

"Taxes are defined as the enforced proportional contribution of persons and property levied by the authority of the State for the support of the Government and for all public needs."—Cooley on Taxation, Page 1.

Taxation of various forms commenced at such an early period in the world's history and the methods of assessing and collecting taxes are so varied, that many volumes have been written by some of the world's best economists on the subject; to attempt to even briefly outline Taxation History would mean a paper of such length that it could not be delivered in the time allowed. I have therefore attempted to discuss the question only as it effects real property, as of this date, 1921, in the State of Texas.

Taxpayers often ask the question: "Where does my tax money go?" For your information locally, I will say that the 1921 city tax rate is $2.44 per $100.00 valuation, which is distributed as follows:

Tax Levy for 1921-22

General Fund	.896
General School Fund	.75
St. Imp. Fund	.25
Park Fund	.10
Public Library Fund	.015
Street Lighting	.065
	$2.076

Interest and Sinking Funds

Regular	.174	
School Bonds prior to April 1, 1919	.078	
School Bonds prior to July 1, 1919	.025	
School Bonds prior to May 1, 1920	.075	
Hospital Bonds	.006	
Abbatoir Bonds	.006	
Total Int. and Sinking	.364	.364
Total Tax Levy on each $100.00 valuation.		$2.44

The State and County rate is $1.49½ per $100.00, assessed value:

State Tax	.62
County Tax	.875
	$1.495

It will be seen from the illustration that after all, growing cities can spend only a certain amount of money where the results are visible, and as the bonded debts increase it decreases the amount available for other uses.

It is therefore encumbent upon taxpayers to seriously consider bond issues before voting additional burdens; it is all right to say—"let posterity pay part of debt"—but there is such a thing as loading posterity to the point that its credit can not be further increased and then stagnation results.

During the recent city election, when an additional bond issue was voted, certain advocates of the issue stated that taxes would not be raised on account of the issue being voted. Such a statement was fundamentally wrong, because a 4½%—40 year bond issue for one million dollars requires $70,000.00 per year to retire the debt, and while the tax rate may not have been raised, the $70,000.00 has to be taken from other sources, which, if said issue had not been voted, would have permitted a reduction in the tax rate in ratio to the $70,000.00 required to meet the bonded debt.

As cities grow and need more schools, better streets, parks, larger and better water supplies, bond issues are inevitable and must be voted, but when visionary dreamers talk of Ten Million Dollar Bond Issues, before you vote, get out your lead pencil and figure out what your

tax receipt is going to look like in dollars and cents two years after the money is spent.

To prove the above statement, get out a tax receipt for Lot 1, Block B of 1910 and compare it with your 1921 receipt. At the same time compare the County and City bonded indebtedness for the corresponding dates.

John Smith must adjust his expenditures to this income or else come to grief; he must live within his means, if his income decreases, he must lower his scale of living. As compared with the individual, the State, County and City, or other taxing districts, reverses the process of the individual, and first considers expenditures, and then income. The result naturally tends to increase taxes, either by raising the tax rate or increasing the assessed value.

High taxes mean high rent, as the burden is and should be passed to the tenant for there is no reason why the net returns on real estate investments should not yield the same return as money loaned on a mortgage on the same piece of real estate.

You often hear it said that the little home owner pays more than his share and is not taxed in proportion to the larger taxpayer. Cold facts do not justify this statement so far as the City of Dallas is concerned. There are approximately 30,000 taxpayers on the City Tax Rolls, about 300 of which pay over 50% of the entire tax of the city. The entire amount of taxes collected from home owners alone would not be sufficient to pay the running expenses of our public schools.

A Tax Collector often hears a taxpayer on a home complain of his assessment, when said taxpayer may have three or four children enjoying the benefits of a nine months school system in fireproof, modern, sanitary school buildings, who are enjoying said privileges by reason of large taxes paid by railroads and other franchise holding public utilities, banks, mail order houses and corporations, who supply the deficit between the amount paid by the small tax payer and the amount necessary to maintain schools, police and fire departments, hospitals and other public necessities.

Real estate owners should always render their property at the office of city and state and county assessors. Care should be taken in rendering to see that your description corresponds with your deed. Also see that your State-County assessment and City assessment corre-

sponds. This does not mean that the assessed valuation should be the same as in many instances different ratios are used by different assessors. I am informed that Dallas county renders on a 60% basis, while the city uses a 50% basis. In paying taxes verify your receipts with your rendition. If you have sold any property which is rendered in your name, and which was prorated at time of sale. you should notify the Tax Collector of said change, and as a matter of courtesy notify party to whom you sold, as he may overlook paying same on account of the property not being rendered in his name, consequently failing to receive notice.

The property owner who is careless and fails to render his property, allowing same to go on the un-rendered or unknown list, is usually careless about paying and is always a kicker when forced to pay.

Over 90% of Dallas citizens pay taxes before delinquent, which speaks well for Dallas.

It is to be hoped that some day the taxpaying public will awaken to the weakness of locally elected tav assessors. It is simply human for a man to desire to please those who have elected him, and on whom his continuance in office depends, and the desire to please may often work counter to that strict justice with which assessments should be made. The value of experience is not greater in any occupation than that of the assessor. The office of Assessor and Collector should be one and not separate as exists today throughout the State, (with a few exceptions) for the reason that the tax rolls are prepared by the Tax Assessor and no matter how efficient a Tax Collector may be, he can not render the proper public service if the tax rolls have been prepared by an incompetent assessor.

Why the necessity of a County Tax Collector—a County Tax Assessor and a City Assessor and Collector, when it could easily be handled by one office, representing both the City and County and State? However, to accomplish this requires an Amendment to our State Constitution. Let us hope it may come to pass.

Boards of Equalization—Or Board of Appeals

The Commissioners' Court sits as a Board of Equalization on the second Monday in June each year for the inspection, correction, equalization and approval of assessments. If a taxpayer's assessment is raised, he must be notified; he must then appear and show cause if he feels his assessment should not be raised.

Cities also have similar boards, sometimes elected and sometimes appointed. Real Estate Boards should become actively interested in seeing that competent realtors are placed on these boards, for it is of vital importance that taxes be equal and uniform, and surely no one is better qualified to pass on land values than a realtor. It may be of interest to state that when the City of Dallas raised the land values in 1916, three real estate men—E. T. Laughborough, L. H. Hughes and W. W. Fisher—were selected to appraise our land values.

Interstate Commerce Commission valuation engineers, and railroad valuation engineers, who have worked valuations all over the United States, state that Dallas city values are nearer correct and better equalized than any other city they have worked in.

Subsequent record was kept of 300 land sales, and their appraisal was 92% of sale price, which is remarkably accurate, considering the wide range of property valued, and that the benefit of doubt should be given the tax payer.

Poll Tax

Over half of our states collect a poll tax. Some of them—as in Texas—require the payment of same as a qualification to vote. In Texas cities of over 10,000 the tax must be paid in person before January 31st (which is delinquent date) in order to qualify as a voter. Poll tax in Texas is $1.75, of which $1.00 goes to the School Fund, 50c to General Revenue and 25c to County. Cities may also levy a poll tax not to exceed one dollar ($1.00). The poll tax has existed for many centuries. As far back as the year 1377 England collected a poll tax of four pence on all persons, male and female, over 14 years of age.

Taxes are payable in coin or currency, and a Tax Collector may refuse to accept checks or drafts. However, he may accept county scrip in payment of county taxes. What a Tax Collector receives he must at his peril safely keep and account for. He has no defense when moneys have been stolen or lost through no fault or negligence on his part. This seems a very harsh rule, but it is, without a question, a very necessary one.

"Taxation shall be equal and uniform," says the Texas Constitution. The greatest weakness in county rendi-

tions is that land and improvements are not separated; in many instances valuable improvements can escape taxation. This evil should be corrected, and can easily be done by having all improvements inspected and appraised by competent architects or contractors. The Tax Assessor can not perform this work as he may not know improvement values, and besides routine detail work of a Tax Department should consume his entire time. Tax officials, as a general rule, have neither the equipment nor competent help to render proper service, and about the time he has learned how to conduct his department efficiently, some new man is appointed or elected.

It is my personal opinion that as long as Tax Assessor and Collectors are elected by popular vote and only hold office from two to four years, taxation will be unequal and uniformity a misnomer. Fully realizing his short tenure of office, he pursues the course of least resistance established by precedent and prefers to let the tax rate continually climb rather than revise and equalize land and improvement values.

To illustrate—suppose building improvement values were increased only 50% as much as their cost has increased in the last four years, the result would be a large increase on the tax rolls, which would make a tax rate increase unnecessary.

Land values in growing cities should be revised at least every five years. Some sections remain about stationary in value, while others by reason of paved streets, modern construction of improvements, etc., enhance in value rapidly. This condition brings about an unequal tax burden, which is manifestly unjust and unfair.

The removal of railroad tracks on Pacific Ave., the widening of Masten and Harwood streets, have unquestionably enhanced the value of property on these streets and in fairness to other taxpayers the tax rolls should reflect the enhancement.

Delinquent Taxes

A delinquent taxpayer is a burden to the prompt taxpayer, he enjoys all public benefits and rides on a pass; his pass should be taken away from him and it can be done if officials would follow the law provided for the collection of delinquent taxes. One provision of law is advertising delinquents; however it is seldom done, and when done is usually published in some small paper of limited circulation, that secures the contract by reason of a low bid per line, and the results of collection are usually on a par with the circulation of the publication. If delinquent taxpayers of the City of Dallas knew that all delinquents would be published in papers with a large circulation like the News, Times Herald, Journal and Dispatch, there would be practically no delinquents, as the average person does not want any publicity in regard to his unpaid obligations to the community.

Conclusion

In the concluding lines on the law of taxation by Cooley, he says: "The chief protection of the citizen must at last be sought in the intelligence and integrity of public officers, and where these fail, as too often they do, the injury must frequently prove irreparable."

THE REALTOR, HIS WORK, OPPORTUNITIES AND RESPONSIBILITIES

By J. B. Rucker.

I have been assigned as a subject for discussion: "The Realtor, His Work, Opportunities and Responsibilities, Ethics governing his relations with other Realtors and his Clients." I shall treat these different phases in the order named that those of you who are inexperienced in business life may in a measure realize the importance of this profession. I shall go into considerable detail as to the scope of his activities.

The word Realtor is doubtless derived from a combination of the three words "real estate broker" and is defined by the latest editions of Webster's Unabridged Dictionary: "A Realtor is a real estate broker who is a member of a local board having membership in the National Association of Real Estate Boards, an organization incorporated for the purpose of advancing the interests of real estate brokers and the protection of the public from unprincipled agents and brokers."

It is used in a proper sense only by those who are members of local Real Estate Boards as well as of the National Association. The word was coined for the purpose of designating the members of a new profession and the person or firm making application for membership in a well regulated Real Estate Board must show that he or they have integrity, responsibility and sufficient knowledge and experience in the business in all its branches to enable them to properly safeguard the welfare of their clients and the public in general.

The use of this aptly chosen name for members of one of the most responsible and honorable of those professions that appertain to business, is becoming more general the country over and the public is rapidly realizing that firms and individuals who use this word to designate the nature of their business are to be depended upon for efficient services and advice, and for a square deal in business transactions.

His Work.

The work of the Realtor extends to many angles of

business life, rivaling that of the banker or lawyer in importance and variety of businesses affected by his activities.

Real property constituting more than seventy per cent of the total wealth of the nation, and the Realtor being the principal custodian, salesman, adviser and developer of this vast wealth, his work taken as a profession naturally assumes a place of vast importance in the welfare of every man, woman and child in this beloved nation of ours. He it is who converts the cactus covered desert into vast orchards of oranges, lemons and other valuable fruits, making valuable farms where once only parched sand and rattlesnakes dwelt. As he accomplishes this by bringing water to the desert, on the other hand he makes valuable farming land out of the impenetrable swamps and everglades by draining them and clearing them for cultivation. He is the city builder and beautifier, making into beautiful residence sections raw lands, sometimes very rough and of little value to the erstwhile owners, thereby making happy homes for his clients as well as bettering their financial condition. The home owner is recognized as the foundation stone of our national life. The owning of a home promotes interest in public welfare, law enforcement and civic advancement, as well as a personal and family pride in the desire for everything that goes to make up modern civilization and culture.

The Realtor is often the promoter of vast industrial districts where housing for factories and industries of every kind are furnished. Also he often times furnishes heat, light and power to his clients as well as homes for the employees of these establishments.

He is often the builder of street car and interurban lines, even building railroads in some cases to carry the public to his property or to that of his clients.

He builds vast apartment houses where the city dweller is furnished with every convenience that modern ingenuity can contrive, not to mention countless other kinds of houses for small town, city and country people.

He is the promoter and planner of most of the magnificent skyscrapers and business buildings of the cities in our midst, oftentimes being the direct means of bringing large business and industrial enterprises to his community.

Building lakes, parks and playgrounds and donating

them to the public and his clients is often a part of his day's work. Through his foresight and initiative, streets are paved, good roads built, and countless benefactions are brought to his fellow man that he often does not claim or receive credit for.

The modern city is largely a monument to the brains, energy, and courage of the real estate man. Remove his activities from the community and business chaos would result. Property values would rapidly decline and development would be slow indeed. In fact the pioneer settlers of the most of our states were really real estate men properly speaking, for in blazing the way for farms, railroads, towns and civilization they were the counterpart of the modern real estate man. Oftentimes they opened up vast tracts for colonization, thus extending the boundaries of civilization.

The non-resident property owner would be placed in a distressing situation indeed, were it not for the Realtor who manages his property, making leases, collecting rents, making repairs and alterations as well as rendering and paying taxes and keeping his insurance in force.

Newcomers to the community are entitled to and generally receive the best advice and counsel of the realtor in order that he get the right start in his new environment by securing the right location for his residence or place of business. The knowledge, experience and sound advice of the well trained realtor is of utmost importance to this class of investors or renter, as often the difference between a properly chosen location for a residence or a place of business and a poorly chosen one, spells happiness and success, or on the other hand discontentment and business failure.

This part of the work of the Realtor should and generally does receive his best thought and attention.

His Opportunities

As his work touches such a manifold variety of phases of human activity so do the opportunities that present themselves for the display of his talents, character and energies.

Being the only representative of such a vast and important part of the wealth of the country, he is as a consequence sought after for all kinds of public service. His advice and counsel, as well as leadership, is often sought by City Governments, Park Boards, School

Boards, City Plan Commissions, and all kinds of organizations which have the comfort, convenience, good health and beauty of their community at heart. Especially does the work of Park Boards, Road Building, Street Paving and widening, and City Plan Commissions furnish him with rare opportunities for valuable service to his fellowman. In fact most of these kinds of commissions had their origin as the result of the activities of the real estate man. His love of civic beauty and convenience and knowledge of how best to obtain them naturally result in the widening, paving and straightening of many a narrow, crooked street, thus, not only creating new and higher land values, but creating new arteries of trade and travel, and relieving other over-crowded thoroughfares.

In his development of residence sections he has vast opportunities of leaving monuments to his name and profession by the building of beautiful boulevards, play grounds, lakes and pleasure resorts that remain to please the eye and give comfort and pleasure to countless generations after he is gone. Not only does the Realtor have unlimited opportunities for public service, but he has rare chances to be of far more usefulness to many of his clients than merely earning the commission with which they compensate him for his services. There are the affairs of the widow, minor or single woman who have been left or have accumulated property or funds without the proper knowledge of how best to invest or manage them. It is one of the rare privileges of the Realtor to be able to so advise or manage the affairs of this class of his clients so as to add to their wealth and happiness. By following the sound advice of a conscientious Realtor many a man has converted his surplus earnings into wealth and affluence.

Probably his greatest opportunity for good is the converting of tenants and renters into home owners, they sometimes afterwards becoming owners of other property. The importance of home ownership if of such magnitude as to preclude the possibility of treating it fully in this article, but you have only to look about you and observe the difference between the attitude toward public questions of the average shifting class of tenants and the owner of a home even though it be a small lot improved with a two-room box house. The pride of ownership and the knowledge that he has title to a section of this earth has a wonderful influence for good on the home owner.

It is said that France is a nation of home owners, the land being divided into small farms. This explains the fact that it is the greatest nation of money savers on the face of the earth. Their remarkable system of savings institutions enabled them to pay the staggering indemnity placed upon them by the Germans after the Franco-Prussian War in the amazing period of one year. Love of home and fireside, accounts for the almost unparalleled defense put up by the French Army against invasion in the recent World War.

Usually the best governed communities are those with the largest proportion of property owners.

His Responsibilities.

The responsibilities of the Realtor are close akin to those of the banker, the realtor being the custodian of business property and other forms of real wealth propably far in excess of actual wealth controlled by the banker. He is called upon to appraise the values of real property as security for loans made for or by his clients. He is frequently called upon by the courts for expert testimony relative to real estate matters involved by various kinds of litigation. Especially is this true in condemnation suits. Practically all committees on taxation of both city, county and state are drawn from the ranks of well posted real estate men. The Realtor is often called upon to serve on Arbitration Committees for the adjustment of differences between property owners and tenant where long time ground leases are involved. During the late war the U. S. Government called upon Realtors the country over for patriotic services in buying and appraising land for Government use, and in many cases the Government was saved large sums of money in the leasing and purchase of land by the advice of conscientious Realtors who often served their country gratis.

As the professional men of other lines are called upon to advise their constituents in their various activities, so is the real estate man called upon to assume a large share of responsibilities in practically every transaction that passes through his office.

The purchaser calls upon him for his opinion as to present and future values of property under consideration, and he has the added responsibility of advising the seller in many cases, relative to price and terms which circumstances warrant him in recommending. There is

practically no other character of business life where both buyer and seller so frequently call the salesman to assume responsibility.

Ethics.

Ethics governing his relations with his fellow Realtors and his clients can best be set out by referring to the "Code of Ethics" which govern all well regulated Real Estate Boards who are members of the National Association.

Follow the Golden Rule.

In his attitude toward fellow brokers as toward all mankind each should endeavor to the best of his ability to at all times follow the Golden Rule—"Do unto others as ye would that they should do to you."

Criticism of Fellow Brokers.

A broker worthy of respect and confidence will never make unfair criticisms or untruthful statements regarding a fellow broker. On the contrary, he will cultivate a friendly relationship and respect for all worthy competitors.

Speak Well of Fellow Broker's Deal.

Should a prospective buyer express interest in a property offered by a competitor, the broker should treat the proposition as well as the absent broker with fairness, however anxious he may be to sell property which he represents.

Ruining Fellow Broker's Deal.

A member of a Real Estate Board cannot honorably seek information concerning a deal of a fellow broker and make use of the knowledge for the purpose of closing the deal himself or diverting the customer to another property.

Fraudulent Misrepresentations Should Be Reported.

As a duty to the public and each other, members should report to the Board misrepesentations or any fraudulent, criminal or illegal act pertaining to real estate, which may entrap and injure innocent or ignorant persons; and the Board owes it to members and the community to take steps to stop such practices and to punish parties guilty thereof.

Discipline for Violation of the Code.

It is the duty of the Board to punish violations of its adopted rules or ethical conduct by proper discipline.

Duties of the Agent to His Client

Agent Should Not Accept Agency Unless Equipped to Get Results.

Should the location or character of a property offered a broker to sell or rent be such that he cannot render prompt and efficient service he should either enlist the co-operation of a fellow broker more favorably situated or recommend that the owner place the property in the hands of such broker.

Agent Should Intelligently Advise Owner.

The broker should, if possible, inspect and appraise such properties as he accepts for rent or sale, that he may be prepared to advise the owner regarding the value of each and the prospects for securing the price desired, also that by becoming personally familiar with the property he will be able to render better service.

Acceptance of Agency a Guarantee of Good Service.

When a broker accepts from an owner the exclusive listing of a property, the latter has a right to understand that such acceptance is equivalent to a guarantee that the broker has good facilities for accomplishing desired results and will put forth consistent effort toward that end.

Agent Should Advise As to Repairs.

It is a duty of the agent to suggest to his client making such repairs or improvements as will make the property more attractive to prospective tenants or purchasers and yield increased returns.

Fictitious Consideration In Deeds.

It is the duty of the broker to encourage naming in the deed the actual or nominal consideration.

Agent Should Not Rent for Illegal Purposes.

The agent should guard the reputation of both the client and his property by declining under any and all circumstances to rent premises for immoral purposes. Should an owner wish him to do so it is his plain duty to

decline, even though it results in the property being withdrawn from his charge.

Duty of Broker to Fit Himself to Intelligently Perform the Functions of An Agent.

The agent or broker owes it to his clients, as well as himself, to embrace every opportunity, through reading, study, inquiry, discussion, observation, lectures and addresses, affiliation with the Real Estate Board and other public-spirited organizations, to increase his knowledge of things pertaining to real estate in his community, such as special assessment, taxation, sanitation, fire protection and legal liabilities for damages on various accounts to which owners and agents of real estate are liable.

Do Not Give Advice to Clients Unless Qualified.

When applied to by a client for information or advice on a real estate matter, the agent or broker should never turn the applicant away with an illy considered or "curbstone" opinion. He should either decline to advise or take time to familiarize himself with the essential details of the case, making a fair professional charge therefor, when the circumstances warrant. Unless he is thoroughly informed, the broker should not undertake to give his client legal, engineering, architectural or other technical advice; he should refer him to an expert in that line.

Duties of the Agent to the Customer.

Duty to Owner Can Never Justify Misleading the Customer.

An invitation to do business with him extended by an agent to the public should be a guarantee of honorable and straightforward dealing in any other manner.

Agent Should Inspect Property Before Offering.

In order to accurately describe property, its location and surroundings, to avoid error, exaggeration or charges of bad faith, an agent offering it, should if possible, make a personal examination of property, before presenting it to a customer.

Agent Should State Facts Only In Offering Property.

The agent should offer each property solely on its merits as to location, convenience, plan, quality and price, affording full opportunity to inspect, making no exaggerated or misleading statements, giving truthful replies

to questions asked and not in word, act or any other manner become chargeable with deception.

Broker Should Collect But One Commission On Each Property Dealt On.

A broker employed by a customer to buy or rent property is the customer's agent and cannot act for, and accept commission from the seller without knowledge and consent of both parties.

These articles illustrate the high moral standard which Realtors have adopted as a guide to those engaged in the business. They amount to a guarantee to the public against crooked and inefficient dealing and are on as high a plane as that of any other profession.

The modern real estate man must be equipped with a general education before he may expect to make a success in his chosen profession. If a young man is properly educated and is naturally adapted for it, there is no profession more remunerative, interesting and constructive.

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